

CHARTER COMMISSION

March 19, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The clerk called the roll.

Present: Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook (late), Patrick Duffy, Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Messr: Deputy Solicitor Arnold

Chairman Dykstra addressed item 3 on the agenda:

Minutes of meeting held March 12, 2003.

On motion of Commissioner Hirschmann, duly seconded by Commissioner Pepino, it was voted to accept the March 12, 2003, minutes.

Chairman Dykstra addressed item four on the agenda:

Continued discussion regarding proposed charter.

(Note: Listing of actions to date by Commission as compared with previously distributed charter proposal submitted by Commissioner Shaw to be distributed. Members requested to bring copy of document with strike-through language to the meeting as a reference document for working purposes.)

Commissioner Dykstra stated at this time, I would like to make a motion, and I move to substitute the working document as submitted by Commissioner Shaw for all actions to date and that this document be referred to as the 2003 proposed Charter.

Commissioner Pepino duly seconded the motion.

Chairman Dykstra stated we are going to have discussion on this naturally, but before we do, if this does pass, following substitution, motions to amend the 2003

proposed Charter will be allowed. All motions must have a second for any discussion to be allowed, and just clarifying, only the person recognized by the Chair will be allowed to speak. The first speaker and final speaker before any vote shall be the person who first made the motion. Right now, this is open to all kinds of discussion. Is there any discussion?

Commissioner Duffy asked about distributing some of the comparisons.

Chairman Dykstra responded right here.

Deputy Clerk Johnson stated this should have been at your spot. There you go. That's the document. That was the listing that the Commission asked for at the last meeting. These contain all the actions to date, and we did a comparison with the working document that you had left with the last time which was the Shaw proposal, and my understanding now is that the motion on the floor is to substitute that proposal, so that you would actually be amending that proposal and putting this stuff in it if you wanted to.

Commissioner Shaw stated so we would go down this list that you have made, and we would take items off of this list and substitute them.

Deputy Clerk Johnson responded and amend the other, right.

Chairman Dykstra stated amendments certainly are going to be in order.

Commissioner Shaw stated so if you found something that wasn't in, you want to put it back in.

Commissioner Hirschmann stated this is the one we're on now. We just adopted that.

Deputy Clerk Johnson responded you haven't adopted it yet. It's a discussion on the floor. She called for discussion. She hasn't called for a vote.

Chairman Dykstra stated yes, there's a discussion on the floor.

Commissioner Hirschmann stated no discussion. Let's just move on it.

Commissioner Soucy stated could I just clarify that the motion is to use this document. No? The motion is to use the previous document with everything that we've voted on to date.

Chairman Dykstra responded no.

Commissioner Soucy stated okay. You're substituting what we voted on to date.

Chairman Dykstra responded yes. I'm substituting it, yes.

Deputy Clerk Johnson stated the motion is to substitute.

A roll call vote was taken. Commissioners Duffy, Hirschmann, Pepino, Shaw, Soucy, Tessier, Wihby, and Dykstra voted yea. Commissioner Cook was absent. The motion carried.

Chairman Dykstra stated so right now, that's the document that basically is now the 2003 proposed Charter following all the amendments or whatever we have to do to it, so I'll open up to discussion, amendments, whatever.

Commissioner Duffy stated Madame Chair, is it possible to go through this sequentially rather than jumping around, so that we can have idea as to some of the things we've already addressed.

Commissioner Shaw stated good idea.

Commissioner Hirschmann asked everyone all set with the preamble to start. Go right through the whole thing.

Deputy Clerk Johnson stated actually Section 1.01 is the same. This is why we did this this way. It's the same document as what you've agreed to so far. 1.02 is the same. 2.01 is the same. 2.02, what we refer to here as the working document is now what you have on the floor, which would be the proposed 2003. That calls for 12 Aldermen, one from each ward, adds a Vice Chair and a Chair. Item c) isn't listed although it's referenced in another place, and d) is the same in both documents.

Commissioner Shaw stated so 2.02 has now a Vice Chair.

Deputy Clerk Johnson responded 2.02 now has a Vice Chair and 12 Aldermen, and what had been approved previously was 14 members, you know, two At Large, and there was no reference to Chairmen or Vice Chairmen.

Commissioner Duffy stated I'd like a clarification on c).

Deputy Clerk Johnson responded "Aldermen shall be elected to serve a two year term" is in another section of the Charter, so it is covered elsewhere.

Commissioner Duffy stated okay.

(Commissioner Cook arrived at the meeting).

Commissioner Soucy stated could we just restate where we are for Commissioner Cook's benefit.

Chairman Dykstra stated why don't we just clarify what we just did. The Clerk will clarify.

Deputy Clerk Johnson stated Commissioner Cook, just to recap to date what has happened or transpired is the working document that everyone was asked to come with and had been agreed upon as the working document has been substituted for all actions to date. We did distribute what you have in your hand. There is a comparison there, and we started by going through that, and we're actually still on the first page in Section 2.02, and what we're doing is going through and comparing one document to the other in the event people as I understand it want to make motions to amend the proposed Charter as it now stands. So, the first difference that occurred is in Section 2.02. It called for 12 Aldermen. It added a Vice Chair and a Chairman, and that is what presently the Commission has voted upon to date, so what we were stating before is your working document said it was 12, and your actions to date had been 14, and now it's reversed. You're back to 12 and partisan rather than 14. Are you okay and understand where we're at?

Chairman Dykstra stated what we're doing Commissioner Cook is having her go...Commissioner Duffy asked if we could go through this. Okay, and at this time as we go through it, people can make amendments, you know as we do go along. First of all, I guess as Carol had suggested, if there's any amendments, we'll take it like page by page or section by section. If there's any amendments, that's probably the best time to do it, so we can kind of keep things in order. If there's none in that area...

Commissioner Cook stated just so I understand what's going on, if we wanted to be 14 with At Large, we have to make an amendment now.

Deputy Clerk Johnson responded there would be a motion to amend it.

Commissioner Cook asked what was the vote on the substitution.

Deputy Clerk Johnson responded eight votes yea. You were absent.

Commissioner Cook stated at least it was unanimous.

Chairman Dykstra stated I did wait till five after five.

Commissioner Cook stated that's fine. I was with a client.

Commissioner Duffy stated I think what's important here is to understand that by the substitution of course, we're back to where we were several meetings ago.

Commissioner Pepino interjected four months ago.

Commissioner Duffy stated maybe four months ago. I was trying to be kind, so we're kind of back to the basics. The last time we voted on this which was two meetings ago, we had 14 members and At Large. This particular point here doesn't mention anything about At Large. It doesn't mention anything about partisan versus non-partisan because that's in another section, so this calls for 12 members.

Deputy Clerk Johnson stated it does state one from each ward, so it would eliminate At Large as well, the document that you currently have. So if you wanted, for instance, to make it 12 Aldermen all At Large, this would be the appropriate place to make that motion to amend, as an example.

Chairman Dykstra stated we had talked about the fact that if there's any motions you want to make now on this first page as we discussed it, now is the time to make the motion if you choose to.

Commissioner Pepino stated in other words, you want to take this and make motions on what we're going through.

Deputy Clerk Johnson stated no, no, no, no.

Chairman Dykstra stated as we're going through it, people can make motions.

Deputy Clerk Johnson stated if somebody wanted to change it back to 14, they'd have to make that motion now.

Commissioner Duffy stated can we maybe reserve that until we get further into the document.

Commissioner Pepino stated we just voted this null and void.

Deputy Clerk Johnson responded not this. No, you did not. This is a comparison document only now.

Commissioner Pepino stated so why are we debating it.

Chairman Dykstra stated if it's not in there, people have a right to make amendments. So, we're letting them know what was in there.

Commissioner Pepino stated out of this.

Chairman Dykstra responded no, out of whatever they want. We're letting them know for informational purposes what the differences...

Commissioner Pepino stated I'll wait until you're all done with this before I make any amendments. I'll wait till you're all done.

Chairman Dykstra stated if you know what you want to do, fine.

Commissioner Soucy stated I'd like to move reconsideration on our previous motion. I don't think that we all have the same understanding of what that last motion was, and at this time, I'd like to move reconsideration.

Commissioner Tessier duly seconded the motion.

Deputy Clerk Johnson stated she voted in favor, so she has to do it now.

Chairman Dykstra stated she has to do it right now. Okay.

Commissioner Hirschmann asked you didn't understand the motion for that.

Commissioner Soucy responded it was read to me, and I guess I did not clearly understand that the comparison did not include all of the votes that we had taken to that point. There are three different documents...

Chairman Dykstra interjected first of all, before we discuss. Wait a minute, Commissioner. What we'll do is we'll take a vote on the reconsideration before we discuss. Okay, we have a motion. Do we have a second?

Commissioner Tessier responded yeah, I seconded it.

Commissioner Soucy stated I was going to say, I think we have multiple documents in play, and I don't think that it was clear from the motion what exactly this document contained and whether or not we were going to be using it. From Commissioner Pepino's question previously, I think he had a question as to which document we were using, and I also wanted to give Commissioner Cook the opportunity to speak to this issue as well since he arrived a few moments late.

Commissioner Cook stated just a question. As I understood what I was told when I came in, and I apologize for being late but clients stay late and every once in a while, you've got to see clients. Is it this document or Commissioner Shaw's complete document?

Chairman Dykstra responded Commissioner Shaw's document is now basically is going to be referred to as the 2003 proposed Charter, subject to amendments. That document is now the 2003 proposed Charter.

Deputy Clerk Johnson stated the motion was to substitute Shaw's proposal for all actions to date.

Commissioner Cook stated it's not this document. It's the Shaw document.

Chairman Dykstra responded that's correct.

Commissioner Cook stated I was confused by the question because with the three documents, I was just trying to figure out what was what.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated so right now, everything is back.

Deputy Clerk Johnson stated the Shaw proposal is now referred to as the 2003 proposed Charter.

Commissioner Duffy stated we're going to go through this sequentially as I understand it.

Chairman Dykstra responded as you asked, we are, yes.

Commissioner Duffy stated are we going to have an opportunity to come back to an issue or should we reserve as we go through it. Let's say that for instance on Section 2.02, I wish to reserve the possible amendment at a future date, not to take it now, but to do it...

Chairman Dykstra stated with an amendment, whenever you want. Certainly. You can amend whenever you want to, but what I suggested, as we're going through it, if there's a section there that you want to amend, it's appropriate that you make a motion, okay, to amend. So, if there's no motions on this, we can

continue on. It's on the top of the other page, 2.06. I have to make an amendment to that.

Deputy Clerk Johnson stated Sections 2.03, 2.04, and 2.05 in the now proposed Charter...

Commissioner Hirschmann interjected this isn't the same as this.

Deputy Clerk Johnson responded yes, I know. It's a comparison, one to the other. Turn the top page there.

Commissioner Hirschmann stated we just voted to go off of this.

Deputy Clerk Johnson stated yes, you did, and we're doing a comparison one to the other so people know what's different in this one from what they previously voted on.

Commissioner Hirschmann stated I'll just go to sleep for half an hour because I don't care.

Chairman Dykstra stated the difference actually, when the first one was regular meetings, when we had voted, we voted for the regular meetings of the Board plus we said you could give testimony at commissions and boards and whatever, okay. That's what we had first voted. Right, is that correct?

Deputy Clerk Johnson responded I hadn't gotten that far.

Chairman Dykstra stated let's just continue on, and you can make your amendments as you see fit.

Commissioner Shaw stated could I make an amendment. Maybe that would help people if I make an amendment.

Chairman Dykstra responded anybody can make amendments.

Commissioner Hirschmann stated it's in order.

Commissioner Shaw stated my amendment won't be correct, but the idea that we allow public testimony at the regular meetings of the Board of Mayor and Aldermen should be inserted. When I had left it out...

Chairman Dykstra interjected that was my first amendment. You read my mind.

Commissioner Shaw stated well, second mine, or maybe you'll make it correctly.

Chairman Dykstra stated it was suggested like at every regular meeting of the Board, the Board of Mayor and Aldermen shall provide a period of comment.

Commissioner Shaw interjected at least monthly.

Chairman Dykstra stated is that okay.

Deputy Clerk Johnson stated we're jumping ahead.

Commissioner Shaw stated that will give people an idea of...mine left it out.

Chairman Dykstra stated there was a motion made, and is that wording okay with you.

Commissioner Hirschmann stated I second it, but I want to say each meeting.

Deputy Clerk Johnson clarified "at every regular meeting of the Board, the Board of Mayor and Aldermen shall provide a period of public comment" is the proposed amendment to 2.06, so you've now jumped two pages ahead.

Commissioner Shaw stated I left out public comment.

Chairman Dykstra stated that basically was a motion. It was seconded. The motion is on the floor. We'll continue with that and then jump back and try to get in order. Any further discussion on that? That gives you the once a month...that gives you your public hearing.

Commissioner Wihby asked does that replace 2.06.

Deputy Clerk Johnson responded no. It would be adding a new section. You're not deleting anything. You're adding to it. Go to Section 2.06. The motion on the floor would add a section d) or add another sentence to c). It's adding a section. That's the motion on the floor.

Commissioner Shaw stated the working document eliminates public comment, and my motion is to put it back.

Chairman Dykstra stated that's exactly right, and we used that wording you said was okay, and you got a second, so we're discussing that. If there's no more discussion, we can just call for a vote on that. We had already voted for that before. We'll do a roll call on that. That's for public comment.

Commissioner Hirschmann stated can I make an amendment to that. I want to give them three minutes instead of two.

Chairman Dykstra responded oh, come on. Let them do that. I'm not going to acknowledge your amendment, thank you.

Commissioner Hirschmann stated I tried.

Chairman Dykstra stated let's move this along as Christmas is coming.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Shaw, Soucy, Tessier, Wihby, and Dykstra voted yea. The motion carried.

Chairman Dykstra stated now we're going to go in order Carol, to make you happy. Let's just go right on.

Commissioner Shaw stated I have a point of order, Madame Chairman. Does that apply to the School Board, or is that somewhere else?

Deputy Clerk Johnson responded School Board is in another section.

Commissioner Shaw stated I wanted to do it there too.

Deputy Clerk Johnson stated 2.01, the governing body, was the same. 2.02 was the Aldermen. 2.03, 2.04, 2.05 that is showing up on the proposed Charter now, the Commission up until this point in time had not previously taken any actions on these sections.

Commissioner Shaw stated were they copied from...I mean, 2.03, if you look it up in the...

Deputy Clerk Johnson responded some of that came directly from, if you go back to the first page, it'll tell you where.

Commissioner Shaw stated there were no verbiage changes there, were there.

Deputy Clerk Johnson responded yes, there was new text added. Where it is italicized and underlined, that's all new text.

Commissioner Hirschmann stated can I make an amendment to Section 2.02.

Chairman Dykstra stated which part are we looking at.

Commissioner Hirschmann responded where it says new section number, general powers and duties of the Board of Aldermen. I would like to amend it so that the Finance Committee of the Board of Aldermen has 12 members. That'd be the only full committee.

Chairman Dykstra stated do I have a second on that. I can second it for discussion. Any discussion?

Commissioner Cook stated isn't it within the discretion of the Board of Mayor and Aldermen to determine the size.

Deputy Clerk Johnson responded not by this Charter. It says five here. It says "shall appoint five of its members to each of the committees of the Board of Mayor and Aldermen".

Commissioner Cook stated I'm not sure we should tell them that they're all going to be the Finance Committee, but they certainly should have the discretion to make it that way if they wanted to.

Chairman Dykstra stated well, they are that way now.

Commissioner Cook stated I understand that.

Commissioner Shaw interjected they wouldn't be allowed to.

Commissioner Cook stated the question is whether that committee is important enough to be different from the other committees and have the flexibility, but for us to tell them it has to be 12 as opposed to it can be 12 or it can be five or it can be whatever, I'd leave them with the discretion. I don't disagree that they should have the discretion to do that, but I thought we sort of were making the Board of Mayor and Aldermen the judge of their own operations as opposed to us forcing it down their throats. That's all.

Commissioner Hirschmann stated a lot of the important readings that the Board of Mayor and Aldermen read...you have a first reading, a second reading, and a third reading. A lot of your readings happen in Finance. A lot of important monetary issues are done in Finance, and some day when there's not a Finance member of Ward 4, the Alderman in the future is not on the Finance Committee, you'll be the first one to be upset. I know I would want my Alderman in the future to be on the Finance Committee and to have a power to do his job. I mean, everyone should be equal, all 12 of them.

Commissioner Shaw stated nothing is passed by the Finance Committee that isn't finally passed by the Board. The question would be really, do you want a committee of the whole to discuss the finances and break up into the meeting to do that. It's not functional, Alderman. I know that you like that, the 12, but you see, the Board is the powerful group in the organization. You've got to maintain the Board's power. What the Finance Committee says or does means nothing until the Board approves it. You know that. It comes back to the Board, and the Finance Committee should be much stronger, and five would be stronger than 12. It sounds great, but five is stronger than 12.

Commissioner Duffy stated I did indicate I'm not so much concerned about the number, but I prefer that the number not be included. I would rather see language as just referred to by Commissioner Shaw and that is that it be a committee of the whole. The reason for that is that I'm not satisfied we have finally determined what the number of total Aldermen are going to be. This reserves it without having to go back into and change the language, so I would prefer the language be committee of the whole.

Commissioner Shaw stated the rationale for 12 goes to the very thought that we should have a Chairman and a Vice Chairman. That's the reason, because these people appoint their own committees versus the present Charter, the Mayor appoints the committees, okay where you can get five, you know that are of one party. What we have done, tried to do, what I had tried...when I use we, that's me...I apologize in case I use the we...the idea is that the Aldermen are all-powerful as to who is on their committees and that they, like Congress, like the State Reps, the minority does have a point of view, and by having five, the number was easily, you know, three for one, two for the minority. That's the reason for five. Seven would be a number that maybe could work where one would get four and three, but the committee of the whole is the way it works now, sir, and it comes back to the very group that he wants to have control of everything. The Finance Committee controls nothing in the City of Manchester, nothing. Nothing. It's the Board of Aldermen that control everything.

Commissioner Hirschmann stated the entire budget is worked out in the Finance Committee, so when the Mayor refers the budget in the future, only five Aldermen are going to work on the budget? I don't think so. I think that all 12 Aldermen should be working on the budget.

Commissioner Shaw stated maybe just the 12 Aldermen should work on it.

Commissioner Hirschmann stated it's called the Finance Committee.

Commissioner Shaw stated you'll notice that one of our things...

Chairman Dykstra stated all right. We're going to move on.

Commissioner Shaw stated excuse me.

Commissioner Hirschmann stated he doesn't understand how City government works now.

Chairman Dykstra stated all right, right now, we're going to just not go into personalities.

Commissioner Pepino stated we had 12 Aldermen on the Finance Committee last year. Our taxes went up eight, nine, ten percent because none of them did anything.

Commissioner Hirschmann interjected you had 14.

Commissioner Pepino stated none of them brought anything in. I watched it on TV, and I see nothing happening. Whether it's five, ten, or 20, if the wrong people are there, you're going to get nothing. I can buy seven.

Commissioner Hirschmann stated I'll tell you one thing. Ward 4 probably won't be represented in the future. You're going to sell yourself short.

Commissioner Pepino stated they haven't been in 50 years, Ward 4.

Chairman Dykstra stated just as a note of information, did you know how it changed to 12? Did you know how it changed to 12 from way back when. It was something that Chris Spirou had brought in when he was an Alderman, so if that has any reflection. That was how it happened. It was the Aldermen that had done it. We're going to move the question, and let's call for a roll call vote.

Commissioner Tessier asked that the motion be restated.

Chairman Dykstra stated he made a motion to make it 12.

Deputy Clerk Johnson stated to insert a Finance Committee of 12 members, and I believe Commissioner Duffy was attempting to amend that to read the committee of the whole. I don't know that he got a second to that amendment.

Commissioner Cook duly seconded the amendment.

Chairman Dykstra stated what you have on the floor now is the 12. He amended it.

Commissioner Pepino stated reconsider what.

Chairman Dykstra responded no, no. He amended the five to 12 for the Finance. 12 is on the floor. That's the amendment. If you want 12, you vote yes. If you don't want 12, you vote no.

Commissioner Cook stated no. The amendment to the amendment is on the floor. Instead of saying 12, it's a committee of the whole, the rationale being all of the Aldermen, no matter how many there are.

Chairman Dykstra stated all of them. If there's 12 or seven. I just assumed the 12, okay. That's fine. That's fine.

Deputy Clerk Johnson stated so the amendment is to make the Finance Committee a committee of the whole. Do you want to call for a vote?

Chairman Dykstra stated we'll have a roll call.

Deputy Clerk Johnson responded on the amendment. It would be Commissioner Duffy's motion for committee of the whole.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Soucy, and Dykstra voted yea. Commissioners Pepino, Shaw, Tessier, and Wihby voted nay. The motion carried.

Commissioner Cook stated that was on the amendment as amended, right.

Deputy Clerk Johnson stated so the main motion on the floor is to amend it to include a Finance Committee as a committee of the whole.

Commissioner Shaw stated on the main motion...is the committee of the whole.

Deputy Clerk Johnson responded right, for Finance Committee only.

A roll call vote was taken. Commissioners Duffy, Hirschmann, and Dykstra voted yea. Commissioners Cook, Pepino, Shaw, Soucy, Tessier, and Wihby voted nay. The motion failed.

Commissioner Cook stated I would like to amend that section to, I'm not sure what the language you've got it, but to give the Mayor and Aldermen the discretion to increase the size of the Finance Committee above five.

Chairman Dykstra stated can't they do that anyways under the old system.

Commissioner Cook stated in here it says all committees will be five. What I'm saying is to give them the discretion to increase the number.

Commissioner Duffy duly seconded the motion.

Deputy Clerk Johnson stated you just want to clarify that they may increase...the Finance Committee only or any committee?

Commissioner Cook stated Finance Committee was my motion.

Deputy Clerk Johnson stated I want to make sure, and the Clerk also has an amendment to this section once everybody is done with it.

A roll call vote was taken. Commissioners Cook, Duffy, and Soucy voted yea. Commissioners Hirschmann, Pepino, Shaw, Tessier, Wihby, and Dykstra voted nay. The motion failed.

Deputy Clerk Johnson stated can I just bring to your attention a suggestion of the City Solicitor, cause he believes there is some conflicting language. Under this same section that we're addressing, instead of reading "the Board of Aldermen shall appoint", it should state "there shall be five members on each of the committees." Because he's saying it's saying the Board of Aldermen shall appoint and then you say the Chair and the Vice Chair, so it's just conflicting language. It's a technicality.

Chairman Dykstra stated so what's your amendment.

Deputy Clerk Johnson stated "there shall be five members appointed to each of the committees of the Board".

Commissioner Shaw stated it's just a technical word change.

Deputy Clerk Johnson stated can we get a motion to change that just for the record. I'll feel better.

Commissioner Cook so moved. Commissioner Soucy duly seconded the motion.

Chairman Dykstra called for a vote, and the motion carried.

Chairman Dykstra stated you had it easy. Maybe we should have you do them all. Okay, so we've got that done.

Deputy Clerk Johnson stated we talked about 2.03. 2.04 and 2.05. There had been no actions taken by the Commission to date on those sections.

Commissioner Shaw asked what did they cover.

Chairman Dykstra stated we removed delegate powers to the boards, but in this, there are no commissions other than the Board of Water.

Deputy Clerk Johnson stated no. We're not that far.

Chairman Dykstra stated but see right here, boards and commissions, so this does relate to it because this says, "The Board of Mayor and Aldermen may delegate such of its powers as may be lawfully delegated to several authorities, boards, commissions." So, we only have two commissions.

Deputy Clerk Johnson stated you're looking to reinstitute that language. Is that what you're telling me?

Chairman Dykstra stated we're abolishing all commissions. We still have two commissions.

Commissioner Cook stated Commissioner Shaw's substituted Charter, which I think we're reading, in 2.04 doesn't talk about commissions. It says the Board of Mayor and Aldermen may delegate such of its powers as may be lawfully delegated to departments and officers and may provide for the performance." It doesn't have commissioners.

Chairman Dykstra asked what.

Commissioner Hirschmann stated yes. It's stricken.

Commissioner Cook stated so it doesn't have to be changed because we do only have two commissions, but they have power.

Commissioner Hirschmann stated not yet, they don't.

Commissioner Cook stated to be consistent in this document. I'm not saying we're going to accept this document, yes, no, or indifferent. All I'm saying is to

be consistent, we don't have...if in fact, we restored commissions, we'd have to change this back to commissions, but this is correct internally in this document.

Chairman Dykstra stated but we do have two commissions.

Commissioner Cook stated but they already have powers, so they don't have to delegate anything to them.

Deputy Clerk Johnson interjected there are more than two commissions actually.

Commissioner Hirschmann stated this delegates the power to those commissions if you put those words back in, and you should put them back in, authority and commissions.

Commissioner Shaw asked whose authorities are they.

Commissioner Hirschmann responded the Airport Authority and the Water Commission.

Chairman Dykstra stated, Commissioner Shaw, wasn't it in there to abolish the commissions.

Commissioner Shaw responded all but two. If they're not required by law.

Chairman Dykstra stated for departments. You're not talking about the Art Commission and all that.

Commissioner Shaw responded no, that's right.

Chairman Dykstra stated just to clarify.

Deputy Clerk Johnson stated the Board can't delegate something to the Art Commission unless you give it. Unless you give them authority to do it, they can't delegate that power to an Art Commission of something that they wanted to.

Commissioner Shaw asked should the words be put back in.

Chairman Dykstra stated so what would we do with this right here then. Just leave it or...

Deputy Clerk Johnson stated it's possible that if the Board wanted to delegate some authority to the Art Commission or the Heritage Commission or somebody else, they couldn't do it because you haven't given them the authority.

Chairman Dykstra stated so we should probably leave...

Commissioner Shaw stated can I make a motion that those words that are struck out be restored.

Deputy Clerk Johnson stated so you want to move to amend by restoring that language.

Commissioner Shaw stated just take that line out of there.

Deputy Clerk Johnson stated you want to restore the line.

Commissioner Shaw responded restore the line.

Chairman Dykstra stated cause it's basically not mandatory. It's may delegate.

Commissioner Shaw stated we have authorities. We have boards. We have commissions. I think it's time I crossed that out. There was not even going to be an Airport or a Water commission, except required by law.

Commissioner Pepino duly seconded the motion.

Chairman Dykstra called for a vote, and the motion carried.

Commissioner Shaw stated 2.05, I didn't make any changes in there.

Chairman Dykstra stated 2.05, general powers and duties of the Mayor.

Deputy Clerk Johnson stated he just took out h).

Commissioner Shaw stated h), I took out completely.

Deputy Clerk Johnson stated 2.06.

Chairman Dykstra stated we already had that motion made and accepted.

Deputy Clerk Johnson stated the differences between the two basically eliminated the comments at the Board of Mayor and Aldermen level which you've now restored already. And the meetings end by 6 p.m. Those were the only major differences that I saw in the two languages.

Commissioner Duffy stated I move to strike the insert starting on 2.06 a) starting with “except for public hearings”, ending with “prior to 6:00 p.m.”.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra asked what was that motion again.

Deputy Clerk Johnson responded he’s moving to strike the second sentence basically in a).

Chairman Dykstra asked what was he replacing it with. I didn’t hear it.

Deputy Clerk Johnson responded nothing. He’s striking it completely.

Chairman Dykstra stated and it was seconded by Commissioner Tessier. Discussion?

Commissioner Tessier responded no.

Chairman Dykstra stated there was a motion and a second. Do you want to discuss anything?

Commissioner Hirschmann stated no, I want to hear it the sentence.

Deputy Clerk Johnson stated the motion is to strike in 2.06 a), the second sentence that says, “Except for public hearings, all meetings of the Board of Mayor and Aldermen and it committees shall end prior to 6:00 p.m.”.

Commissioner Hirschmann asked the whole thing.

Deputy Clerk Johnson responded yes.

A roll call vote was taken. Commissioners Cook, Duffy, Pepino, Soucy, and Tessier voted yea. Commissioners Hirschmann, Shaw, Wihby, and Dykstra voted nay. The motion carried.

Chairman Dykstra stated that’s all right. Let’s move along. So that just is eliminated. They can do what they want, I guess.

Deputy Clerk Johnson stated the next is Section 3.01.

Chairman Dykstra stated 3.01, departments.

Deputy Clerk Johnson stated which is on page 5 now.

Chairman Dykstra stated we're on page 5 of the stricken out area here. Yes, Commissioner Shaw.

Commissioner Shaw stated is it possible...I'm going to make a motion to reconsider the vote on the last issue.

Chairman Dykstra stated the 6 o'clock.

Commissioner Shaw affirmed the 6 o'clock.

Chairman Dykstra stated okay, reconsideration. Do I have a second?

Commissioner Wihby duly seconded the motion.

Commissioner Shaw stated can we just vote on the reconsideration.

Chairman Dykstra stated let's pay attention. He's reconsidering his vote on that 6 p.m.

Commissioner Shaw stated it allows the committee to reconsider.

Commissioner Pepino asked can we vote on that reconsideration now.

Chairman Dykstra responded yes, we're going to do it now because he voted in the affirmative.

Commissioner Tessier stated he voted in the negative.

Deputy Clerk Johnson stated Commissioner Shaw voted in the negative.

Commissioner Shaw stated so I can't make a motion to reconsider.

Deputy Clerk Johnson responded so you can only give notice for reconsideration.

Commissioner Shaw stated I don't want to give notice, but somebody else can make a motion who voted in the positive.

Deputy Clerk Johnson stated positive was Commissioner Cook, Duffy, Pepino, Soucy, and Tessier.

Commissioner Shaw stated he can make a motion.

Deputy Clerk Johnson stated Commissioner Pepino could make the motion, yes.

Commissioner Pepino stated according to the Board rules, anybody can make a motion.

Chairman Dykstra responded no, no, no. Just make your motion to reconsider if you'd like.

Commissioner Pepino stated get the Board rules out and read them.

Commissioner Soucy stated they're right here, Leo. Rule number ten, voting with the majority.

Chairman Dykstra stated what are you getting into this stuff. We're going to be here all night.

Commissioner Pepino stated unless they changed the rules.

Chairman Dykstra responded no, they didn't. Do you want to make a motion to reconsider?

Commissioner Pepino stated can we reconsider that right now.

Chairman Dykstra responded yes.

Commissioner Pepino stated I'll move.

Commissioner Shaw stated I can second it even though I'm not in the majority.

Deputy Clerk Johnson stated you can second.

Chairman Dykstra stated we're going to have a roll call on the reconsidering .

Commissioner Shaw stated so a yes vote means I want to reconsider.

Chairman Dykstra responded a yes vote brings the motion on the floor again, or the amendment or whatever it was.

A roll call vote was taken. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Cook, Duffy, Soucy, and Tessier voted nay. The motion carried.

Deputy Clerk Johnson stated the motion on the floor currently is to strike the second sentence in 2.06 a). That is the motion on the floor. So a yes vote will strike it. A no vote would not strike it.

Chairman Dykstra stated okay, if you want to keep the 6 p.m. in here, you would vote no. Is that correct?

Deputy Clerk Johnson responded yes.

Chairman Dykstra stated you would vote no if you want to keep it in here.

Commissioner Cook stated I have a question. The question is this. I understand the rationale for having meetings during the day. I understand that, and Commissioner Shaw has said it at the last Charter Commission. He has said it at this Charter Commission that the government business ought to be done during the day because people are sharper, more awake, or what. However, as a practical matter when we have government where we have now set in concrete that we're going to only pay Aldermen \$5000.00 and School Board members \$2,000.00, it ain't going to be a full-time job. And we have people who I think ought to be given the opportunity to participate in government who have to have a full-time job and are not available to be at meetings before 6 o'clock, and frankly, if anybody wants this Charter to pass, which I don't but if anybody wants this Charter to pass...

Chairman Dykstra interjected you said you don't.

Commissioner Cook stated...as written, and we haven't voted on it yet, but it seems to me that people who put this in will be giving people another reason to vote against it. I suppose that's a reason why I ought to vote to leave it in because I put as many bad things in as possible, but this is not a good provision because it's going to freeze out participation by a huge number of people. So, I got to tell you, I don't know what you're doing.

Commissioner Shaw stated well, first of all, it allows people who have been excluded from government to serve. It allows people who are not night people, mothers who have children they must baby sit at night. While their kids at school, they could easily help run our government. It allows older people who might not want to go out at night to serve their government. There are more pluses to my proposal than there are minuses, but the biggest plus of all is the utilization of City workers to lower our cost. For those people that think government should be run more efficiently and effectively, then a vote no on this deletion would be a correct vote. It definitely cuts the cost of government. People don't like working till 11.

Commissioner Pepino stated there's no trouble in Concord getting 400 people to run every year. I'll bet you, 600-700 people run for that job, during the day, and they're young people. Some of them are college graduates. Some are still in college. Some of them, well, they can't walk. So you get from the youngest to the oldest, and if young people that are married, kids home and they're serving up there, and they're really not making that kind of money. We have lawyers up there serving, and they're getting paid by their firms during the day, and you know that.

Commissioner Cook interjected not by my firm, they're not.

Chairman Dykstra stated there are more meetings up at the House too.

Commissioner Hirschmann stated I just have a comment. Would you accept 8 p.m.?

Commissioner Shaw responded I'll accept 5. Compromise. No, I won't accept 8.

Commissioner Hirschmann stated you won't accept 8 p.m.

Commissioner Shaw responded no. I say 6, but that doesn't mean you have to vote for my idea. You have your rights, but 5 o'clock would be better because then there is no overtime.

Chairman Dykstra interjected oh, no. Let's not go any lower.

Commissioner Shaw stated this is a big cost to the government. You had to watch last night. I counted the number of people that were serving the Aldermen, dis-servicing their family, but servicing the Aldermen's needs. This is a major, major cost. I'm sorry, but it's good cost savings.

Chairman Dykstra stated that's okay. We have it on the floor. A no vote is to keep to 6 p.m. in. A yes is to basically eliminate it.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated that is still in there, so we're just going to move along.

Commissioner Tessier stated you're freezing all the education people out.

Chairman Dykstra stated what is going to be next, Carol. Keep moving right through this.

Deputy Clerk Johnson stated we were in 3.01. 3.01 and 3.02, there had been no previous actions by the Commission to date. It relates to existing departments. The majority of the language is from the 1996 Charter although there are some minor differences between the two.

Chairman Dykstra asked are there any changes here that you'd want, amendments, discussion...3.01, Section A, and it went to 3.01, 3.02.

Deputy Clerk Johnson stated this is where it got confusing because you're in different sections, that's why. 3.01 and 3.02, those particular sections had not been acted on by this Commission up until this point.

Chairman Dykstra asked anything there. Do you want to just keep on moving, ladies and gentlemen, if we're not going to...

Commissioner Soucy asked could we just have a moment to read it. Just to compare it.

Commissioner Cook stated I have a question. What is a majority of the Board of Mayor and Aldermen as opposed to a majority of the Board of Aldermen. One has 15, and one has 14.

Chairman Dykstra stated one has 13.

Commissioner Cook stated or one has 12, and one has 13.

Deputy Clerk Johnson stated a majority of the Board of Aldermen would be...

Commissioner Cook interjected but it doesn't say that. It says a majority of the Board of Mayor and Aldermen.

Deputy Clerk Johnson responded you asked the difference between the two, so I'm trying to give you your answer here. A majority of the Board of Aldermen would be, at this point in time you have 14 Aldermen, so it would be eight Aldermen. A majority of the Board of Mayor and Aldermen would be eight votes which could include the Mayor in a split vote. If it was seven Aldermen each way, the Mayor could break the tie, and the Mayor could be the eighth vote rather than an Alderman. That's the difference.

Commissioner Cook stated that's fine.

Commissioner Shaw stated can I make a point, ask a question. Is a majority of the Aldermen eight on 14 or isn't it nine?

Chairman Dykstra responded it would be eight.

Deputy Clerk Johnson stated it would be eight on 14.

Commissioner Shaw stated because it's eight on 12, is a majority.

Deputy Clerk Johnson responded no. Seven on 12 is a majority. Eight is a two-thirds.

Commissioner Shaw stated the Mayor can veto any action by the Board, so it takes eight votes out of 12.

Deputy Clerk Johnson stated for a two-thirds majority is right, two-thirds majority.

Chairman Dykstra stated to override.

Commissioner Shaw stated so it's nine. It's really. I mean the Mayor can get his way.

Deputy Clerk Johnson stated it's ten in a 14. It's ten.

Commissioner Shaw stated oh, is it ten.

Commissioner Cook stated the reason I asked the question, and I think Carol's answer was helpful, but the reason I asked the question...you give the Mayor as I understand the rules...many of you've looked at the rules. He can break a tie, and he can veto, but when it says a majority of the Board of Mayor and Aldermen, it sounds to me like you're suggesting that under those circumstances, he can vote whether or not there's a tie.

Chairman Dykstra responded no. He only breaks a tie. I think it's somewhere in there.

Deputy Clerk Johnson stated the statutory requirement is he doesn't vote unless there's a tie.

Commissioner Cook stated I just didn't want to inadvertently use something by calling it that.

Chairman Dykstra stated it's covered in another area.

Deputy Clerk Johnson stated statute.

Chairman Dykstra stated okay. Is there any other in that section. We've put school department in there right?

Deputy Clerk Johnson responded in essence, the section a) in the 3.01, and then in 3.02, they added the school department listed.

Chairman Dykstra stated okay. We could just move along.

Deputy Clerk Johnson stated then we go on to 3.03, boards and commissions.

Chairman Dykstra stated 3.03, boards and commissions of departments.

Deputy Clerk Johnson stated actually I'm going to take it as three groupings at the same time, 3.03, 3.04, and 3.05 all together eliminates all departmental commissions except for the Water and the Airport. It does maintain special commissions such as Heritage or Arts Commission, and they are all listed.

Commissioner Shaw stated it took away requirements on the Airport. Are you down to that part yet?

Deputy Clerk Johnson stated let me just finish because I'm trying to work off of both documents. The actions to date by this Commission prior to tonight's action are outlined as Section 3.02, so if you want to see what you did in relation basically what you had done was add an f) and g) on your comparison language. You had added those to your comparison language prior to this.

Commissioner Shaw stated they're gone now.

Deputy Clerk Johnson responded right. In your proposal, I mean those are the differences, so there are some major differences in these sections.

Commissioner Shaw asked in 3.01 and 3.02, there are major differences, or not. 3.03 is a major difference.

Deputy Clerk Johnson responded 3.03, you've left the Airport and the Water and basically, you changed the composition of those because you've added a Chairman.

Commissioner Hirschmann stated I'd like to make an amendment.

Commissioner Shaw stated and eliminated labor representation.

Commissioner Hirschmann stated on 3.03, I'd like to make an amendment to add some language. Call it item six.

Chairman Dykstra asked which one. Under what, a), b), c)?

Deputy Clerk Johnson asked under authority, under c).

Commissioner Hirschmann stated I don't really know where to put it, Carol.

Deputy Clerk Johnson stated all right. Why don't you tell me what you want to do, and then we can try and figure that out.

Commissioner Hirschmann stated the two mentioned authority and commission that we're going to keep, they will have a three-year term.

Commissioner Pepino stated they changed it.

Chairman Dykstra asked did you have a term in here, Commissioner Shaw.

Commissioner Hirschmann stated I don't see any terms, so I want to go to three-year term effective the date of the Charter.

Commissioner Shaw stated I thought I had the Vice Chair or the Chair of the Aldermen was Chairman of the Airport Authority and the Water Works.

Deputy Clerk Johnson stated so those would have to be concurrently served as Chairman of the Board, but you're talking about the others as being a three-year term.

Commissioner Hirschmann stated people that are appointed need terms.

Chairman Dykstra responded yeah.

Commissioner Shaw stated I thought that language was somewhere else.

Commissioner Hirschmann stated I'm moving to make them three years for those two.

Deputy Clerk Johnson stated it was, but it's been eliminated.

Commissioner Shaw asked what was the old method. It was longer than three.

Chairman Dykstra stated it was for somewhere else, but it's not there any longer.

Commissioner Cook stated we need to put that language at the end of the last sentence of a) and b) because the three remaining members, and then you would say for a term of three years.

Commissioner Hirschmann stated I would accept that.

Deputy Clerk Johnson stated you would also be adding that to 3.04. We just added as a new section as well because there's nothing there about terms either.

Chairman Dykstra stated a term of three years.

Deputy Clerk Johnson stated you would have to do that unless otherwise provided by law, cause the statutes may require something else or you may have, in the case of the library certainly, you're going to have something.

Chairman Dykstra asked is it like one three-year term or can they go two. I mean, what are we doing here?

Commissioner Cook stated what I just suggested was as to Airport and Water Commissions. If you want to put it in for all commissions, then you'd put it some place else.

Deputy Clerk Johnson stated you can put it in all three sections.

Chairman Dykstra stated just a term for three years.

Deputy Clerk Johnson stated you want three-year terms for all...unless it's otherwise stated by law.

Chairman Dykstra stated so a term of three years unless otherwise stated by law or something like that.

Deputy Clerk Johnson stated provided by law.

Chairman Dykstra stated unless otherwise provided by law.

Commissioner Shaw stated two people drop off the Airport and one person drops off the Water Works. The Mayor is already a member of the Water Works, part of

the seven. There are seven members of the Airport Authority. Two must go, all right, to provide for room for the Alderman and the Mayor.

Chairman Dykstra stated we had a motion on the floor and a second.

Deputy Clerk Johnson stated the understanding is the Chairman of the Board obviously is going to serve concurrently. We'll fix the language.

Chairman Dykstra stated just a clarification. You had to add for a term of three years unless otherwise provided by law.

Deputy Clerk Johnson stated right.

Commissioner Shaw duly seconded the motion.

Commissioner Cook stated I know we can get this drafted correctly, but we know that the Airport Authority and the Water Commission are not otherwise required by law because they presently have three-year terms. So where are we putting this?

Deputy Clerk Johnson asked Water is three. I thought Water was more.

Chairman Dykstra stated I think...was water five.

Commissioner Soucy stated I think Water is five.

Deputy Clerk Johnson stated I think Water is five.

Commissioner Hirschmann stated I think it was, but that's too long. That's why we're making it three.

Commissioner Soucy responded but I think that's statutory.

Deputy Clerk Johnson stated the 1996 Charter did change the terms, and it put them all at three-year terms unless otherwise provided by law, and I believe that the Water Commission currently is five. The library I think is seven, to the best of my recollection.

Chairman Dykstra stated I think we did two three-year terms. Didn't we?

Commissioner Cook stated that was for every commission unless there's something else.

Chairman Dykstra responded exactly.

Deputy Clerk Johnson stated that's what you're doing here. You can't change the State law requirements.

Chairman Dykstra asked why would we put it there then, Carol.

Deputy Clerk Johnson stated I'm going to add it to a), add it to b), and add it to 3.04 d) in each section.

Chairman Dykstra stated okay, all right. So we had a second, and we're going to take a vote on that. We're going to add it in every section. Term of three years unless otherwise provided by law.

Commissioner Cook stated some suggestion was made that they be staggered terms which would mean for the ones that had three...or for the Airport Authority, that would be one per year. I don't know how you'd indicate this.

Commissioner Shaw stated I thought that it was staggered in the book.

Deputy Clerk Johnson responded it is now, so when they come up for renewal, they would end up being three-year terms. You'll provide for that in the transition. We'll have to come back with some transitional language for you.

A roll call vote was taken. Commissioners Cook, Duffy, Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Soucy and Tessier voted nay. The motion carried.

Chairman Dykstra stated okay, we're done with that area. You can even come back and amend it. I don't care.

Commissioner Tessier stated I have an amendment.

Chairman Dykstra asked for where, for what.

Commissioner Tessier stated that one member of each of these boards be from an organized labor.

Chairman Dykstra asked what section are you in.

Commission Tessier stated 3.03.

Deputy Clerk Johnson stated 3.03 and 3.04.

Chairman Dykstra asked don't we have that somewhere. I thought we did have that.

Commissioner Cook stated yeah, but he took it out.

Commissioner Soucy stated we got to keep putting it back.

Commissioner Pepino asked who took that out.

Commissioner Shaw stated I took it out, but I didn't even know I took it out.

Chairman Dykstra stated okay, we've clarified the motion, but we need a second.

Commissioner Pepino stated I'll second that. I thought that we had that in there already.

Commissioner Soucy stated second.

Deputy Clerk Johnson stated I need to ask Commissioner Tessier a question. 3.03 contains Airport and Water, and 3.04 is other departments such as Conservation, Arts, etcetera. They're not relating to departments, so I guess I mis-stated that. I think you are just looking at 3.03 at this point. One member from organized labor for 3.03.

Chairman Dykstra stated that was moved by Tessier, seconded by Commissioner Soucy.

Deputy Clerk Johnson stated that was Commissioner Tessier by whom. I didn't get a second.

Chairman Johnson responded Commissioner Soucy.

Commissioner Pepino stated I'd like to add to that.

Chairman Dykstra stated a motion was made that one person from organized labor, and you want to amend that. To what?

Commissioner Pepino stated the way this was originally started was your unions were supposed to submit names to the Board of Mayor and Aldermen whether it be three, four, or five.

Commissioner Tessier asked where is that.

Commissioner Soucy stated it's not in here now, but he's saying that's the practice.

Commissioner Pepino stated it was in there somewhere years ago, but they took it out.

Chairman Dykstra asked do you want to amend her motion.

Deputy Clerk Johnson stated that was prior to 82.

Chairman Dykstra stated okay, go ahead. Amend it.

Commissioner Pepino stated I just did.

Chairman Dykstra asked what was your amendment.

Commissioner Cook stated from names submitted by organized labor.

Deputy Clerk Johnson stated names to be submitted. It would be to the Mayor because the Mayor brings the names in in this instance. Nominations to be brought forward, actually.

Commissioner Pepino stated from organized labor.

Deputy Clerk Johnson stated to the Mayor, you wanted, right because it's the Mayor. Nominations to Mayor by organized labor. And that was Commissioner Pepino by who seconded the amendment to the motion?

Commissioner Tessier stated I did.

Commissioner Cook stated just so I understand what we're voting on. We're voting on that amendment to the motion about labor.

Chairman Dykstra responded that's right. Exactly.

Commissioner Cook stated we're not voting on the labor thing until we vote on this one.

Chairman Dykstra stated we have to vote on the main motion as amended after this, right Carol.

A roll call vote was taken. Commissioners Cook, Duffy, Pepino, Shaw, Soucy, Tessier, and Wihby voted yea. Commissioners Hirschmann and Dykstra voted nay. The motion carried.

Deputy Clerk Johnson stated so the main motion as amended adds an organized labor to sections a) and b) or adds that one must be a member of organized labor.

Commissioner Hirschmann interjected you might as well make them all.

Commissioner Pepino stated there's only two.

Deputy Clerk Johnson stated that nominations from organized labor go to the Mayor.

Commissioner Pepino stated can I make a point of order for information.

Chairman Dykstra stated we're in the voting mode now. No more discussion. Then you can state something after.

A roll call vote was taken. Commissioners Duffy, Hirschmann, Pepino, Soucy, and Tessier vote yea. Commissioners Cook, Shaw, Wihby, and Dykstra voted nay. The motion carried.

Commissioner Hirschmann stated well, you guys want organized labor, you got it. Good. Let's move on.

Commissioner Tessier stated good.

Commissioner Soucy stated could I make a further amendment to this section. I'd like to remove the portion where the Chairman of the Board of Mayor and Aldermen serves as an ex officio member of the two boards.

Commissioner Shaw stated and Chairman too.

Commissioner Soucy stated correct and Chairman.

Commissioner Cook duly seconded the motion.

Chairman Dykstra asked where are we. What section?

Commissioner Soucy responded it's in Section 3.03.

Deputy Clerk Johnson stated 3.03 a) and b) both.

Chairman Dykstra stated “the Chairman of the Board of Mayor and Aldermen shall serve as ex officio”, okay.

Commissioner Soucy stated and as Chairman of the Board.

Chairman Dykstra stated so you’re opposed to that. So you want to delete that. Is that what you’re saying?

Commissioner Soucy stated that section, that’s correct.

Chairman Dykstra asked do we have a second.

Commissioner Cook stated yes, I seconded it.

Chairman Dykstra stated Commissioner Cook seconds. Discussion.

Commissioner Cook stated well, let me just say why I support it. First of all, I think at some point, we’re going to have to talk about this Chairman and Vice Chairman nominating the committees and having this new function that’s been designed for them in this Charter, which I think was among the things that were reserved for further consideration, because I think it’s going to create a partisan debacle and perhaps a physical impossibility. If you had everybody elected in some absolute tidal wave year of elections as all Democrats or all Republicans, you couldn’t do what the Charter says you have to do, but Aldermen have a lot to do. Chairmen of Commissions have something to do under circumstances. I think it might be better to have somebody who focuses on the Commissions to be able to be Chairman of the Commission. I don’t have any particular problem with the Mayor being on both of them because they’re important Commissions, but these are different talents often, chairing the Board and being Chairman of a Commission, and they might ultimately overburden somebody or be inappropriate, so I just don’t think we should straightjacket Commissioners.

Commissioner Shaw stated well, I heard that the Airport and the Water Works were major enterprise funds, and I thought they should have people on it that understood the significance of the amount of money that they were spending. The two people, one was chosen...the Mayor was chosen by the citizens at large, and the Chairman of the Board was chosen by his peers on the Board, so I thought that it gave more weight to those two Commissions to have the proper people serve on them. I’m going to vote against Commissioner Soucy’s proposal since I proposed the other.

Commissioner Duffy stated I would like clarification on Commissioner Soucy's motion as it deletes both the Chairman of the Board as well as the Mayor.

Commissioner Soucy responded no. It just deletes the Chairman of the Board and the Chairman of the Board serving as Chairman, so it effectively deletes the entire second sentence in both.

Commissioner Duffy stated that's what I thought you had said. Thank you.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Chairman Dykstra stated okay, so that remains. We'll just move on.

Commissioner Hirschmann stated 3.05, I have a question on.

Deputy Clerk Johnson stated 3.05 is the Board of Assessors. It's been changed.

Commissioner Shaw asked 3.05 is the Board of Assessors. Okay, go ahead. What number, d) or what?

Deputy Clerk Johnson stated you're on page seven, Section 3.05 at the bottom.

Chairman Dykstra stated right at the beginning Bob, of that 3.05. "There shall be a Board of Assessors". Okay, is there going to be a motion?

Commissioner Hirschmann stated I have a question on 3.05.

Chairman Dykstra stated sure, of course.

Commissioner Hirschmann stated transitional-wise, if we vote for this, the department head that's in the Assessment Department now is going to remain as the department head. This would be upon a vacancy, this language.

Commissioner Shaw responded yes. I think in the transition, it would be stated.

Deputy Clerk Johnson stated on the transition, I think it was staying the same unless he removes him. I mean, there's a removal clause to remove department heads.

Commissioner Hirschmann stated I'll accept that.

Commissioner Shaw stated there was a rationale for the Mayor appointing all three, you know, but he doesn't appoint other people in departments, and that was that this acts as a Board on assessing matters, and if the Chairman of the Board was to nominate the two other assessors or hire those two others, there would be times that pressure could be brought on the two others, so by having the Mayor make all the nominations that gave the people the freedom to make the decisions. There's no other reason for that.

Chairman Dykstra stated no changes on that. All right. So we'll move on.

Deputy Clerk Johnson stated in the proposed Charter, Section 3.19, there's a difference between that and the former 3.01 acted on by the Commission, and that is that the language change basically changes it from a majority of Aldermen versus a majority of the Board.

Chairman Dykstra asked what do you mean, Board of Mayor and Aldermen. Is that what you're saying?

Deputy Clerk Johnson responded what I'm saying is the Commission previously said it'll be a majority of the Board of Mayor and Aldermen which means the Mayor brings in the name, and he gets to vote on it in the case of a tie. It's now been changed, and he can't vote on the tie.

Chairman Dykstra stated so he can't break the tie. So it's going to be...so if the Aldermen vote on, seven.

Deputy Clerk Johnson responded seven. On page ten...

Commissioner Hirschmann stated you're getting way ahead of me.

Deputy Clerk Johnson stated because all that other language is struck out.

Commissioner Hirschmann stated but on the struck out language, it talks about the Board of Health.

Deputy Clerk Johnson stated the Board of Health was listed.

Commissioner Hirschmann stated but they used to have to have nurses and that kind of thing. Why did we strike that?

Commissioner Soucy stated we struck a lot of good things here.

Commissioner Shaw stated the Board of Health should be constituted the way it was. I made an error there.

Deputy Clerk Johnson stated so you want to place the same language for the Board of Health back in to where Airport and Water is.

Commissioner Hirschmann stated it's an oversight. That's all.

Commissioner Shaw stated I mean, they should be the way it's presently constituted.

Commissioner Tessier asked what page is that on.

Commissioner Hirschmann responded page eight.

Chairman Dykstra stated so you made a motion, and did you second that, Commissioner Shaw.

Commissioner Shaw responded I second it.

Commissioner Hirschmann stated it says "the three members of the Health Commission shall be representative of the medical, dental, and nursing professions respectively".

Commissioner Pepino stated there's nothing wrong with that.

Commissioner Shaw stated it sounds logical.

Chairman Dykstra stated we don't want any plumbers on there.

Deputy Clerk Johnson stated I believe it is too, but I'm not positive. I think that in terms of all of your commissions, in the transitional provisions, you probably should have something eventually that says that all of the commissions that are remaining such as Arts and Heritage would remain as presently constituted until changed by ordinance or as otherwise provided by law, and that would carry you forward on everybody. But there is a motion to put Board of Health back in.

Chairman Dykstra stated moved by Hirschmann, seconded by Shaw.

Deputy Clerk Johnson stated to restore language for the Board of Health and put it in with the Airport and the Water Commissions.

Commissioner Hirschmann stated 3.09 on page eight.

Chairman Dykstra stated “labor, profession, political”, is that it.

Commissioner Hirschmann responded it was the second sentence there.

Chairman Dykstra asked so is it just that second sentence.

Commissioner Hirschmann stated “three members of the Health Commission shall be representative of medical, dental, and nursing professions respectively”.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated it was unanimous in favor. Now, we can move on to three...where were we.

Commissioner Duffy stated Madame Chair, may I just ask a point of clarification. In this section that we just finished discussing, we just inserted if I’m not mistaken, Board of Health, did we not under boards and commissions not relating to departments. Is that correct?

Chairman Dykstra stated right, 3.09, yes. We put in once sentence or two. Where it says three members of the health commission, that’s what we put back in, Commissioner.

Deputy Clerk Johnson stated they are in 3.04 now, so I guess you wouldn’t put them as running the Health Department or having any other authority.

Chairman Dykstra stated so that’s just that one sentence, right.

Deputy Clerk Johnson stated we’ll just add it that it’s to be as presently constituted and continue the language on.

Commissioner Duffy stated my point that I’m looking for is some language relative to terms. At one time, there was language relative to terms. There’s no language...

Deputy Clerk Johnson stated you’ve added in term language for three years. You’ve already done that for all commissions that are established in accordance with this unless otherwise provided by law.

Commissioner Duffy responded okay.

Chairman Dykstra stated any further. Okay, that was voted on anyways, right? Okay, we cleared that up. Now, we can move on.

Commissioner Hirschmann stated 3.19.

Deputy Clerk Johnson stated we had just pointed out the difference between 3.19 and what the Commission had acted on to date. 3.20, authority had not been acted on before. The major difference obviously, we took the 1982 language and added "or officer". 3.21 is removal of department heads and officers. That had not been addressed by the Commission prior to this. This is new language that he had inserted in here.

Commissioner Cook stated could I ask you a question.

Chairman Dykstra asked is that somewhere else. Yes, Commissioner Cook.

Commissioner Cook stated the chief administrative officer section where it says "or officer", the only one that I have a question about is, and I just haven't focused on this, assessors were officers under the 1996 Charter, and there were three of them.

Deputy Clerk Johnson stated they're not officers here.

Commissioner Cook stated they're not officers any more, so in each case when an officer also serves as a department head, there's no confusion of who the officer is, so I mean each of the other officers...

Deputy Clerk Johnson stated that's been clarified.

Commissioner Shaw stated the three left are officers.

Commissioner Hirschmann stated they're employees now.

Commissioner Cook stated the three left are finance, clerk, and solicitor. Okay, that's fine.

Deputy Clerk Johnson asked so 3.21, we're all set with.

Commissioner Hirschmann stated I'd like to make an amendment on 3.21. I'd like to change the number ten members to number eight members to remove a department head.

Commissioner Cook stated second.

Commissioner Shaw stated we don't have that.

Deputy Clerk Johnson stated for officer you're talking about. Department head is not...

Commissioner Hirschmann stated it says department heads and officers, 3.21.

Commissioner Shaw responded no. Department heads are removed by a majority of the Board of Mayor and Aldermen. That's seven members.

Chairman Dykstra stated ten members of the Aldermen elected, you have here.

Commissioner Hirschmann stated that's not what it says here.

Deputy Clerk Johnson responded yes, it does. It says "for department heads, the removal shall not be effective until it has been confirmed by a majority of the Board of Mayor and Aldermen".

Commissioner Shaw interjected seven votes.

Deputy Clerk Johnson stated which is the seven votes.

Commissioner Hirschmann stated six and the Mayor.

Commissioner Shaw stated six and the Mayor. Or it could be seven.

Commissioner Hirschmann stated okay, I'll keep that, but I want to change the words ten members to eight.

Deputy Clerk Johnson stated officers, it says "the removal shall not be effective until it has been confirmed by ten members of the Aldermen elected".

Commissioner Cook stated and you want to change that one to eight. I'll second that.

Commissioner Hirschmann stated eight is a super majority of a board of 12.

Commissioner Shaw stated the only reason I put ten in was the fact that the officers tend to give advice to the Mayor and the Aldermen they might not want. You can't do that, and therefore, you know, I had said, make it so hard that they had more freedom to give advice you didn't want. That's all. That's the only rationale.

Commissioner Hirschmann stated devil's advocate says you make it so hard, we never get rid of them.

Commissioner Pepino stated that's right.

Commissioner Shaw stated the only reason you should get rid of an officer is he's derelict in duty.

Chairman Dykstra asked any further discussion. The removal shall not be effective until confirmed by eight members was the amendment or the motion.

Deputy Clerk Johnson stated that's the motion. You need to get a second.

Chairman Dykstra stated we had a second, didn't we.

Commissioner Cook responded yes. I seconded it.

Commissioner Pepino stated I had a question before you can go anywhere. Now, officers and department heads, is one a majority and one eight or are they both all eight or all seven.

Chairman Dykstra stated one is a majority and one is a super majority.

Commissioner Pepino stated it should be all equal. If it takes eight to remove a department head, it should take eight to remove an officer. There should not be a difference in the two. If it's seven, seven's okay, as long as it's seven and seven. Officers and department heads. It doesn't make sense.

Commissioner Soucy asked Commissioner Pepino, are you making a motion to make it eight for both of them.

Commissioner Pepino stated I'd like to see it seven or eight, either one.

Commissioner Soucy stated well, there's one of each right now.

Commissioner Pepino stated this is one of those compromise deals. I'll go for seven or eight.

Chairman Dykstra asked do you want to make a motion to make it eight.

Deputy Clerk Johnson stated you're saying Aldermen, not the Board, so there is a difference of what he's saying.

Chairman Dykstra stated right now, we have seven for department heads, eight for officers. You want to make them both eight?

Commissioner Pepino stated make them all eight. I'll make a motion.

Deputy Clerk Johnson asked eight of the Aldermen elected.

Commissioner Shaw stated you can't have eight.

Commissioner Pepino stated all right, I'll make a motion for a simple majority.

Commissioner Shaw stated I mean, you can have eight, but you can't have eight. If you want to get rid of a department head, you should be able to get rid of him.

Commissioner Pepino stated all right, a simply majority which is seven.

Deputy Clerk Johnson stated I just want to clarify what he's saying because sometimes we get confused.

Chairman Dykstra stated he's amending. He wants to change eight to seven.

Deputy Clerk Johnson stated no, he's not. He's changing eight to a majority of the Board of Mayor and Aldermen.

Commissioner Pepino stated which is seven. A simple majority is seven. Make them all equal.

Deputy Clerk Johnson responded no, it's not always seven. It's seven including the Mayor. There is a difference.

Commissioner Pepino stated all right, it shall be a majority of...

Chairman Dykstra interjected of the Board of Aldermen.

Commissioner Pepino stated of all the Aldermen elected.

Deputy Clerk Johnson stated okay. That's what I'm trying to clarify what you wanted.

Commissioner Hirschmann stated if seven Aldermen say you should go, you should probably go.

Chairman Dykstra stated so it would be all the Aldermen, not the Mayor.

Deputy Clerk Johnson asked are you saying seven or a majority.

Chairman Dykstra stated a majority would be the seven.

Deputy Clerk Johnson stated well, it could be seven or it could be eight if you had 14.

Chairman Dykstra stated oh, okay, all right.

Deputy Clerk Johnson stated so, we'll say a majority of Aldermen elected.

Commissioner Cook stated somebody is going to have to second that motion.

Deputy Clerk Johnson stated okay, now we have a motion by Commissioner Pepino. That's an amendment to the motion on the floor.

Chairman Dykstra stated okay, we're going to vote on the amendment.

Commissioner Cook stated it hasn't been seconded.

Commissioner Soucy asked seven Aldermen or seven of the Board of Mayor and Aldermen.

Deputy Clerk Johnson responded a majority of the Aldermen elected. Now, I have Pepino. I don't have a second recorded.

Chairman Dykstra asked do I have a second. For the seventh, Commissioner Shaw seconds.

Commissioner Shaw stated no, no. I'm going to ask a question.

Deputy Clerk Johnson stated there's no second.

Chairman Dykstra stated the second is Shaw.

Deputy Clerk Johnson responded no, he just said no.

Chairman Dykstra asked you're not seconding the seven. Well, we're not going to discuss it until there's a second.

Commissioner Hirschmann stated I'll second it for discussion.

Chairman Dykstra stated second by Commissioner Hirschmann. Discussion. Go ahead Commissioner Shaw, we have a second.

Commissioner Shaw stated I'm not sure when you say that it takes eight Aldermen to eliminate a department head, that's in the best interest of the citizens, okay. That's why the number was a majority of the Board of Mayor and Aldermen which was six, and the Mayor got to vote. Okay. That meant that department heads, especially those that don't give advice to the Mayor in a sense but run departments, they don't plow the streets at all. I've told them 25 times to plow the streets. I find six Aldermen and the Mayor, and they're gone, okay, for cause. For cause because I tell them, for cause. You don't plow the streets. Where the officers, I had the theory that officers tend to give advice that sometimes you don't want, okay. You know, you can't buy that building. The Aldermen still want to go out and buy it, so they don't have enough votes to get rid of him. Leo, he wants to drop it to eight which means ten was too high, and I think he's...that's not a problem, but to bring the others up to eight and never be able, ever be able to eliminate a department head is wrong.

Commissioner Hirschmann stated I thought he was bringing them to seven.

Chairman Dykstra stated he's bringing them to seven.

Commissioner Cook stated he's bringing them all to seven.

Deputy Clerk Johnson stated he's bringing all of them to seven.

Chairman Dykstra stated a simple majority.

Deputy Clerk Johnson stated he's putting them all at seven.

Commissioner Shaw stated but it doesn't say in there that the Mayor is the only one who can bring somebody up to eliminate them. Does it say that?

Deputy Clerk Johnson responded yes. It says the Mayor may remove.

Commissioner Cook stated the Mayor removes.

Chairman Dykstra stated the Mayor removes, and they need seven votes. To remove a department head or to remove an officer, you need seven votes is what his motion was.

Commissioner Shaw stated I don't know why you need seven.

Chairman Dykstra responded I thought you said you wanted seven. Ten was too much.

Commissioner Cook stated he wants seven for department heads, and he wants ten for officers. Leo is changing it to seven for everything, and that's the question.

Commissioner Shaw stated and he was saying eight.

Commissioner Cook stated and he said eight which is still a super majority which is two-thirds instead of just a majority.

Commissioner Shaw stated for officers.

Commissioner Cook stated but he thought ten was too high, but that's only for officers.

Commissioner Pepino stated point of order. If you make it a simple majority, and the Aldermen have seven for all, and the Mayor does not want that department head, then he can veto that, and seven Aldermen cannot override his veto, so the eight vote would be there.

Commissioner Cook stated this only works for the Mayor to remove. Read the first sentence. The Mayor has to initiate the action, and then it's up to other people to back it up.

Commissioner Shaw stated the Mayor brings the name in. He needs six votes to remove the department head. If the department head has seven votes, he still goes. If he has eight votes, he stays.

Commissioner Hirschmann stated the way the sentence is written, confirmation will be on seven Aldermen. So the Mayor isn't counted in that number. The Mayor brings it forward. I recommend this department head should be removed. Seven Aldermen have to confirm it. If it's 6-6, it doesn't get confirmed. It dies.

Commissioner Shaw stated it doesn't get confirmed if that's the way it's written.

Deputy Clerk Johnson stated that's not the way it's written. That's the way he's saying it.

Commissioner Hirschmann stated that's the way it's written.

Commissioner Soucy stated no, one says Board of Mayor and Aldermen, and one says Aldermen elect.

Deputy Clerk Johnson stated Board of Mayor and Aldermen would mean a 6-6, the Mayor can break the tie. That is the difference.

Chairman Dykstra stated right now, basically you said you wanted the ten for the officers.

Commissioner Shaw stated and he made a motion to make it eight which I agree with.

Chairman Dykstra stated you agree with the eight. Commissioner Pepino, you made it seven. Do you want to bring this motion forward? Do you want to rescind it, or do you want to go forward with the vote?

Commissioner Tessier stated there's a motion on the floor.

Chairman Dykstra stated yes, I understand that. It's his motion. He can rescind it.

Commissioner Tessier stated move the question.

Chairman Dykstra stated you can rescind your motion or you can...

Commissioner Pepino stated I rescind my motion. Who seconded my motion? He did. Do you rescind your second?

Commissioner Hirschmann stated if you want me to.

Commissioner Pepino stated we'll go for eight.

Chairman Dykstra stated so that is off. Now, if you want to make another motion...

Deputy Clerk Johnson stated so the motion on the floor right now. You have a motion on the floor.

Chairman Dykstra stated he's rescinding his motion which he has a right to do. Okay, now, do you want to make another motion?

Commissioner Pepino asked what's on the floor now.

Commissioner Hirschmann stated move the question to eight.

Deputy Clerk Johnson stated changing the officers' removal from ten to eight.

Commissioner Pepino asked all.

Deputy Clerk Johnson responded no, officers.

Chairman Dykstra stated for officers. The other is seven, department heads.

Commissioner Pepino stated I don't like that term, officers and department heads. To me, they're all the same.

Chairman Dykstra stated okay, well, that's your option. We moved them, so that's up to you.

Commissioner Soucy stated then vote no, and we can make another motion.

Deputy Clerk Johnson stated we could vote on this and take another motion.

Commissioner Pepino stated I'll pass. I don't have another motion.

Chairman Dykstra stated you don't have another motion. Anybody else want to make a motion?

Commissioner Hirschmann stated no, I'm all set.

Deputy Clerk Johnson stated do you want to call for a vote on this.

Chairman Dykstra stated we're going to call for a vote. Roll call vote. Clarify the motion.

Commissioner Shaw stated the motion is to reduce it to eight.

Chairman Dykstra stated I asked if you wanted to make a motion.

Commissioner Shaw stated he made it.

Commissioner Cook stated he made it. It's on the floor. He made it. I seconded it.

Chairman Dykstra stated that one. He removed his. We're going to clarify it anyway.

Commissioner Shaw stated he reduced the number of Aldermen needed to remove an officer.

Deputy Clerk Johnson stated it reduces it to eight.

Commissioner Soucy stated parliamentary inquiry. Under the present motion, if the Mayor wants to remove a department head, he needs six votes plus his own. If the Mayor wants to remove an officer under this motion, he would need eight votes.

Deputy Clerk Johnson stated of Aldermen.

Commissioner Soucy stated of Aldermen, excluding his own.

A roll call vote was taken. Commissioners Cook, Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted yea. Commissioners Duffy, Soucy, and Tessier voted nay. The motion carried.

Chairman Dykstra stated we have 3.23. Welfare, huh, that's crossed out here. Well, you got 3.22.

Deputy Clerk Johnson stated 3.23, 3.26, and 3.27, now I know that with regards...

Chairman Dykstra stated this is 3.23, City Clerk.

Deputy Clerk Johnson stated there was nothing that was brought into me on that.

Chairman Dykstra stated I thought he said Mayor. Did he say Mayor?

Deputy Clerk Johnson responded yes. That's crossed out.

Commissioner Cook stated my only inquiry on City Clerk is I seem to recall there's a State statute on the selection of the City Clerk, and I just would hope we would compare obviously we'd have this to do by counsel, but if the State statute says the Aldermen elect the City Clerk and not on the nomination of the Mayor, then we got to figure that out. This pursuant to Section 3.19 is the Mayor nominating. I'm in favor of the Mayor nominating, but it may be illegal.

Deputy Clerk Johnson stated there is a law that says that, but my understanding is the interpretation by the Solicitor is if you choose to override that by this Charter, you can do that. At least, that's the way he's ruled because we did question that.

Chairman Dykstra asked where are we now.

Deputy Clerk Johnson stated you're going to move on to 3.26, City Solicitor.

Commissioner Hirschmann asked can it say there that he's an officer somewhere.

Deputy Clerk Johnson responded it does.

Commissioner Cook stated it says officer. The whole section is officers.

Commissioner Hirschmann responded okay. All set. Moving on.

Deputy Clerk Johnson stated the suggestion by the City Solicitor is that we add language at the very front of the section that says Officers that states that there shall be three officers and list City Clerk, City Solicitor, and Finance Officer.

Commissioner Hirschmann stated I'll move that language, that sentence.

Commissioner Duffy duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated the motion carries. We'll list the three officers at the beginning.

Deputy Clerk Johnson stated so then you have the City Solicitor. Then we had Finance Officer...

Commissioner Hirschmann asked he's not an officer any more.

Deputy Clerk Johnson stated yes, he is, but there was at the last meeting, there was a request or actually in the last two meetings, there's been a request of the Clerk's office to draft some language with relation to the Finance Officer for Commissioner Cook. He had brought in some language. I did work on that personally a little bit, and he now has with him I think some different language.

Chairman Dykstra asked why are we going to 6.11.

Deputy Clerk Johnson responded because that's just what it was termed in the old one. Ignore the numbers. I can fix the numbers. It's the language.

Commissioner Cook stated if Mr. Clougherty's letter has stated that Commissioner Shaw's proposed language satisfied his concern, I was only trying to address it. If he's happy, I'm happy.

Commissioner Shaw stated I wanted everybody to understand in the 3.27, the final section that the Finance Officer will have the right, I think it says shall have the right, so if the City pays any money out at the School Department, he has the right to see those. Do you understand what I'm saying? "To inspect and audit any account or records of financial transactions maintained by any office, department, or agency receiving an appropriation from the City." So I just want you to be sure that...I've heard from Aldermen that sometimes they ask questions, and there's no reply comes back. This clearly states, "He shall have the right." It doesn't say the Board has the right. I don't want anybody to be misled by that because...

Commissioner Hirschmann interjected so is that a motion.

Commissioner Shaw stated no, no. I just wanted you to be sure to understand that's maybe why he likes it because it says, "He shall have the right." And I think that's important. It doesn't mean he can change an answer. He just has the right...

Commissioner Pepino asked Commissioner Shaw, does this address the part where I asked Kevin where he can not get information from other departments.

Commissioner Shaw responded he has the right to get it now. It probably was there to begin with, but now it says "shall".

Commissioner Pepino stated that's all I want. Thank you.

Chairman Dykstra stated as long as they're the same as the school. Okay, anything else in that section.

Commissioner Duffy stated I'd just like to in a point of clarification, under City Clerk, we have two sections, a) and b), and b) is deputies.

Deputy Clerk Johnson stated and we were just going to ask to address that for all three officers actually.

Commissioner Duffy stated now we look at Finance Officer, and we've got a separate section for that.

Deputy Clerk Johnson stated that was going to be my point. Thank you.

Commissioner Duffy asked what is your point. Just go ahead, Carol.

Deputy Clerk Johnson stated what we had done is we were just following along with one of the Charters when I was trying to track this with him. My suggestion would be that you have an a) and a b) in each of those sections that outlines deputies, and it's just to be consistent all the way through for all three officers, and if you want to make a motion to so amend it.

Commissioner Duffy stated I'll make the motion.

Commissioner Shaw duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Shaw stated could I ask one of the attorneys present a question. There is complaint that the School Department...you know, it says here the City Solicitor shall be appointed and that he shall counsel the Board of Mayor and Aldermen. There doesn't seem to be any section in there where the School Department...could you have an attorney assigned in the City Solicitor's office, a deputy that was a school-related attorney?

Chairman Dykstra stated they have their own. Don't they have their own?

Commissioner Shaw asked it'd be a conflict to have that same office. It just seems to me there's always concern that the City is hiring attorneys outside the City's purview.

Commissioner Hirschmann stated that would be a good motion.

Commissioner Shaw stated I don't know. I'd rather have an attorney tell us if we could do that and how the person would be separate. Maybe the City Solicitor. I know that's a big concern out there by the public, that the School Board is spending money on attorneys. How would the attorney in your office be not subservient to the City Solicitor when his client is the School Board?

Deputy Solicitor Arnold responded there may be that danger. I can look to past practice where the office of the City Solicitor used to do much more work for the School Department than it does now and that that did not appear to be a problem.

Commissioner Shaw asked Mr. Cook, what do you think.

Commissioner Cook stated I think the evolution of the dispute that you referred to came from one administration of the School District that used an attorney who had initially been hired to be special education attorney which is a specialized piece to take over more general things as disputes arose between the City and the School

District, and that would have been a conflict for the same office to handle. I think the traditional role of the City Solicitor's office was to advise on City issues, general legal issues, and issues like that, and specialized school issues just like specialized other issues, other counsel were hired. The City hires separate counsel to do specialized legal assignments for the City because a City Solicitor's office isn't expert in and has a full-time job doing what it's doing. When a specialized building case comes up or a specialized appeal comes up or a specialized personnel case comes up, they hire special counsel. I think the derivation of schools having separate counsel came because school law is a specialty. I think it probably got exacerbated because of the amount of controversy between the two departments. To the extent that you don't have controversy, I don't think you'd have any need for it very frankly.

Commissioner Shaw asked is there any language that would give the City could provide an attorney.

Commissioner Cook responded I think if you tried to craft language that tried to get a result in a Charter, I think you might be hamstringing both the City Solicitor's office and the School District on what they might need and then make an impossibility out of something that you wouldn't want to have happen frankly.

Deputy Solicitor Arnold stated maybe I wasn't clear when I addressed your question earlier. There are certainly circumstances where there is a conflict...has arisen in other areas of City government apart from schools, where there would be a conflict with the City Solicitor and City Solicitor's office handling certain portions or both sides of a dispute, and what we have done in that case is basically said, "Look, we have a conflict," and have moved to bring in outside counsel to provide the representation. That allows I think the City Solicitor and the School Department some flexibility to handle those types of situations that if you were to mandate that the Solicitor provide certain advice in your Charter would rob that flexibility and probably not be a good idea.

Commissioner Pepino stated I have a point here. It seems to me in the last Charter we changed the name of the School District to the School Department.

Chairman Dykstra interjected it's Department in this.

Commissioner Cook stated in the last Charter, we changed the name of School Department to School District, and that's what's in here.

Commissioner Pepino stated we said we'd refer to that as the Department.

Chairman Dykstra stated yes, correct.

Commissioner Tessier stated that's what's here.

Commissioner Pepino stated the Department is right there. We're referring to them as a Department right here for the City Solicitor.

Commissioner Shaw stated we'll let them argue it later.

Chairman Dykstra asked is there any further...

Commissioner Pepino stated if you want, it's a job for two more lawyers.

Deputy Clerk Johnson stated I think we're through in officers.

Commissioner Hirschmann asked did we adopt the Finance Officer stuff.

Deputy Clerk Johnson responded yes. Well, you're leaving the language that's in here unless you want to make an amendment.

Chairman Dykstra stated that's the one we voted on on the document.

Commissioner Cook stated I withdrew mine because Kevin had said the stuff in there was okay with him. I was only trying to address the concerns of the Finance Department.

Commissioner Duffy asked are we on Article...

Deputy Clerk Johnson stated we're moving to Article IV.

Commissioner Duffy stated that's what I thought.

Commissioner Shaw stated this is what was passed the last time.

Deputy Clerk Johnson stated Article IV. 4.01 School Department had not been acted on. He's placed some language in here.

Commissioner Shaw stated I thought that was the way we had passed it.

Deputy Clerk Johnson responded the Commission had not acted on...

Commissioner Shaw stated yes, we had.

Deputy Clerk Johnson stated no, you had not.

Commissioner Shaw stated we said it would be a School Department.

Commissioner Pepino stated that's right.

Deputy Clerk Johnson stated right School Department, but I'm talking about the language that's written underneath it. You've inserted language there, in this document. I'm saying the Commission previously didn't act on this, okay. We're still working with the comparison, that's all.

Commissioner Hirschmann stated we did all that work, and now we're not going to use it.

Deputy Clerk Johnson stated you didn't do anything with that. You have not taken any...

Commissioner Hirschmann stated no, I'm talking about something else. I'm thinking out loud.

Chairman Dykstra stated we didn't touch the School. We didn't.

Deputy Clerk Johnson stated 4.02, School Committee...

Commissioner Shaw asked isn't this...This is what the citizens passed the other day. This whole section is what the citizens passed in November.

Chairman Dykstra asked you mean that referendum, is that what you're talking about.

Commissioner Shaw stated in November or whatever. This is word for word.

Deputy Clerk Johnson stated what was passed in November.

Commissioner Shaw stated word for word, no changes. That was voted by the citizens.

Deputy Clerk Johnson stated 4.02 is School Committee. This section is now broken out into a) and b).

Chairman Dykstra asked where does it mention that they will not be getting benefits. Is that in here?

Deputy Clerk Johnson stated that's in compensation.

Chairman Dykstra stated all right. I just wanted to make sure.

Deputy Clerk Johnson stated 4.02 a), this is showing 12 members, one from each of the 12 wards of the City. That's obviously different than what the Commission had voted on before. And then b) talks about organizational meeting of the Board of School Committee, shall elect a Vice Chairman and that it be elected by a majority vote of the School Committee members elected. Then you have a new section which was not anywhere before.

Chairman Dykstra stated general powers.

Commissioner Shaw stated it gives a little power to the Vice Chairman. The only difference, the Vice Chairman appoints two members to each committee.

Deputy Clerk Johnson stated under the present Charter, the Mayor would be appointing these.

Commissioner Shaw interjected all of them.

Deputy Clerk Johnson stated this has been changed, and it also adds the 6 p.m. and public testimony, and here is where you would add in that public comment before the main Boards too.

Commissioner Shaw stated I make a motion to do that.

Commissioner Hirschmann duly seconded the motion.

Deputy Clerk Johnson stated new d) public comment at every regular meeting.

Chairman Dykstra stated so this whole new section and public comment.

Commissioner Hirschmann stated it's an addition to c).

Commissioner Shaw stated and committee meetings.

Deputy Clerk Johnson stated well, that's already in there. We're just adding another one.

Chairman Dykstra stated we're just adding that, so public comment.

Deputy Clerk Johnson stated so it's the same language that was added to the Board of Mayor and Aldermen.

Chairman Dykstra stated seconded by Commissioner Hirschmann. Any further discussion?

Commissioner Tessier stated I would like to speak to my friend over here. Oh, public comment. Oh, I'm sorry.

Commissioner Duffy stated I do have a comment. I'd like to incorporate it into item c) is all, is that the Board and committees of the Board shall provide public comment.

Deputy Clerk Johnson stated the motion on the floor is accomplishing it.

Commissioner Duffy stated instead of having it as a separate item, as c).

Commissioner Soucy stated he's just saying it should be combined. It's a clarity of language. It should be inclusive in that.

Commissioner Shaw stated the subcommittees, that's testimony versus comment.

Deputy Clerk Johnson stated well he's calling it public testimony in c). You're calling it public comment.

Commissioner Shaw stated no, the comment is before the Board.

Chairman Dykstra stated the public comment is before the Board. The testimony is before the commissions.

Commissioner Shaw interjected before the committees.

Chairman Dykstra stated, the regular meetings of the Board of Aldermen is where you're going to give your public comment. Boards and commissions is where you're going to give your testimony, correct? Okay. Just to clarify.

Commissioner Soucy asked what.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Cook stated I have a motion on this section. I would move that we take the three members appointed by the Vice Chair of the School Board out. I'd make that motion, and then I'd like to speak to it.

Commissioner Soucy duly seconded the motion.

Commissioner Shaw asked doesn't he have just two.

Commissioner Cook stated I said the Vice Chairman. Excuse me, you said the Chairman shall choose three. I meant the Vice Chairman choosing two. My comment is this. One of the unique I guess aspects of Manchester government is the dual role that the Mayor plays in both organizations. There's been a lot of criticism, most of it I think misdirected and ill-advised, but be that as it may, of the School Board, but one of the things that allows some connectedness between the City side and the School side is the ability of the Mayor to at least organize the School Board when he gets there. Now, I think the same should be true of the Aldermen, and I think we're making a mistake by bifurcating it to the degree that this document proposes to do it, but I would certainly think that people who believe that there ought to be some participation and at least organizational control by the elected official who sits there, no matter he is or she is, would continue the practice of allowing the Mayor to constitute the committees of the School Board and not create instant tension at organization time as opposed to the system now where the Mayor comes in, says this is the way it's going to be, and at least that sets it up. I don't believe this says, and I don't know that it has to say, but the Mayor not only gets to pick the membership of committees but designate the Chairman of the Committee, and this is silent on that. I think it's inappropriate but I think it's also incomplete because I think you've got a...

Commissioner Shaw stated it still does what Commissioner Cook wants to have done and that is to have the Mayor have the power to appoint the committees. It's true that I didn't add a sentence in there that the Mayor would appoint the Chairman. I gave that power to the committee itself to select its own Chairman. It's great to go over there. Brad Cook is absolutely right. It's great to go over there and beat them over the head and tell them you're the boss, but really you have about 13 members of the present School Board who want to serve on Athletics.

Commissioner Tessier interjected I doubt it.

Commissioner Shaw stated they want tickets too.

Commissioner Hirschmann stated ask Arthur Beaudry.

Chairman Dykstra asked isn't the Mayor automatically the Chairman of the School Committee.

Commissioner Cook stated yes, but that's not what this talks about.

Commissioner Shaw stated as Chairman, he gets to appoint three, and the Vice Chair gets to appoint two.

Chairman Dykstra stated it's says the Chairman. It doesn't say it's not the Mayor.

Commissioner Cook stated you're missing my point, Madame Chair. My point is at the present time, the Mayor comes in at the organizational meeting of the School Board and says these are the people who are going to be on these committees, and the first one named is going to be the Chairman. Now, there are rules of the Board of School Committee that regulate how that happens, and that's in the rules of the School Committee. If it's silent, those rules will still control, but if we're going to get into this level of minutiae, I think we ought to say that you know, if we're going to have two appointed by this person and three appointed by this person, then it begs the question on whether the Charter intended or didn't intend to say who's going to appoint the Chair of the Committee. I think it's an important power for the Mayor to be able to come in, organize the School Board, and designate the Chairman of the Committee.

Commissioner Shaw stated well, I don't care what the rules of the School Board might be. If the composition of the committees or how many people can serve on more than one committee, you see they said that to me when I arrived there. And I said listen, it says I appoint the committees. It doesn't tell me how I can do it. You can't tell me how I will do it. Okay, so the Mayor has the power regardless of the School Board's rules to appoint who he wants to what he wants in the manner that he wants.

Commissioner Cook interjected that's just simply an incorrect statement. That's just a completely incorrect statement.

Commissioner Shaw stated you can't make a rule of a Board...

Commissioner Cook stated when the Charter is silent on the subject and the body has set rules, rules have to either be...if they adopt the rules first, the Mayor complies with the rules.

Commissioner Shaw stated no, that's not true.

Commissioner Cook stated yes.

Commissioner Shaw stated I went to court over that.

Chairman Dykstra asked is there any further discussion.

Commissioner Hirschmann asked so who does pick the Chairman of each committee.

Commissioner Shaw stated the Mayor does.

Commissioner Cook stated the Mayor does at the present time. This doesn't say who does.

Commissioner Soucy stated we would need to add that.

Commissioner Shaw stated under mine, the committee.

Commissioner Cook stated no, yours doesn't say the committee. It's silent.

Commissioner Hirschmann asked do you want to clean it up to say who does it.

Commissioner Cook stated my motion is that the Mayor appointing all five so you don't get into this three and two and three against two.

Chairman Dykstra stated any further discussion. Hearing none, we're going to call for a roll call. Can you clarify what we're voting on, Carol.

Deputy Clerk Johnson stated you're removing references to the Vice Chairman appointing any members to the School Committees. So it would leave it that the Mayor will appoint all of the members.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Deputy Clerk Johnson asked could the Clerk make a suggestion in this instance. That would be where it says the Board of School Committee shall appoint five of its members that we would do the same thing and say there shall be five members to each of the committees because it's conflicting.

Chairman Dykstra stated okay, for clarification.

Commission Hirschmann stated I'll move that language. "There shall be five members."

Commissioner Pepino duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson stated now we're moving on to 4.03 was the same language.

Commissioner Tessier stated excuse me. I'd like to make a motion, I'm sorry, to remove the last sentence in part a) on page 14 regarding "except for public hearings, all meetings of the School Committee and its committees shall end" at six o'clock.

Commissioner Hirschmann interjected oh no, that has to stay.

Commissioner Soucy duly seconded the motion.

Deputy Clerk Johnson stated she's taking this out. The wording "except for public hearings, all meetings of the School Committee and its committees shall end prior to 6:00 p.m." She's moving to amend it by striking that sentence.

Commissioner Tessier stated I think two reasons. One was stated before that it eliminates a lot of people from attending meetings, and secondly, I think it'll cut down on the number of people that will come to speak at public meetings because it's going to come during parents' work hours, and people that want to speak at these meetings will not be able to do that in the afternoon. If their parents were working, and they have a concern that they want to talk to the Board about, they should be given the opportunity as citizens of this City to speak, and the time should be given to them so that they can speak in public session.

Commissioner Soucy stated I just have a question as to how this would work in practical terms. If a Board is in the middle of a discussion on a particular issue, when the clock strikes six, does that mean people are just going to be forced to get up and leave? Does that mean that in the case of an emergency meeting of the Board to deal with a crisis in the City, a staffing issue, or something else that the Board would then be precluded from conducting any business beyond the hour of 6 p.m.? Is that what this is saying?

Chairman Dykstra stated the City Solicitor will answer that.

Deputy Solicitor Arnold stated it says except for public hearings, all members of the School Committee and its committees shall end prior to 6 p.m., so I think the answer to your questions is yes.

Commissioner Soucy stated thank you.

Commissioner Tessier stated in the middle of the session. You're out of here.

Commissioner Shaw stated I think I want to make a comment.

Chairman Dykstra stated wait a minute. There's a motion on the floor.

Commissioner Shaw stated I know, but it's in regard to that. You recognized me after her.

Commissioner Soucy stated he did have his hand up.

Chairman Dykstra stated oh, you just want to speak to it. I thought you said to make a motion.

Commissioner Shaw stated I just thought that the public hearing part that people have put back in, it isn't required that it begin at the meeting, is it. Are there any words in there that says it has to be at the beginning? It could just as easily because of school issues, it could just as easily be a four o'clock public hearing or 3:30.

Commissioner Cook stated it says except public hearings.

Commissioner Shaw stated no, no, no, no. But the Board shall hear from the public comment. We didn't say that public comment has to be at the beginning of the meeting, did we?

Chairman Dykstra responded you said at all regular meetings.

Commissioner Shaw stated that was my point. They can say four o'clock will be the public comment time, and they could adjourn.

Commissioner Tessier stated it's still an inconvenience for a lot of parents.

Commissioner Shaw stated well, there are a lot of parents home.

Commissioner Duffy stated again, I think we have to remind ourselves that we are working on a Charter. A Charter is basically like a Constitution for the City and to include minutiae such as times of meetings to me is totally inappropriate. Whether we're talking about School District, whether we're talking about Board of Mayor and Aldermen meetings or any committee meetings, to include language that suggests and not only suggests dictates what time a meeting will end is totally inappropriate for the kind of work we're supposed to be doing here.

Commissioner Hirschmann stated yeah, I was going to say something, but I'm going to just move on. I'll move to the question.

Chairman Dykstra stated so basically this was to remove that sentence, except for public hearings, so a yes vote would be to remove it and a no would be to keep it in.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Commissioner Tessier stated six o'clock.

Commissioner Shaw stated we're cutting taxes, increasing the amount of money for books.

Chairman Dykstra stated okay, what are we on now.

Deputy Clerk Johnson stated partisan ballots. 5.01 obviously is partisan and what you had before was non-partisan. 5.02 is the same as what was approved to date.

Commissioner Duffy stated excuse me Madame Chair, I wish to make a motion to change the partisan to non-partisan.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra stated a yes vote would be non-partisan, correct.

Deputy Clerk Johnson stated a yes vote would be non-partisan. A no vote will be partisan.

A roll call vote was taken. Commissioners Cook, Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Deputy Clerk Johnson stated 5.02 was the same. There is a difference in 5.03. 5.03 refers to your municipal primary, and the difference is it says and shall select School Committee candidates. What it does is it forces a primary regardless of whether it's a...right now, if you have a non-partisan election and that would be in the instance of the School Committee still, if you had two or less people running, you would not have a primary. In this instance, you are changing that. You will have a primary regardless, whether there is one person running or whether there are five people running...

Chairman Dykstra interjected they can do write-ins, right.

Deputy Clerk Johnson stated the write-ins will show up.

Chairman Dykstra stated that's fine, that's good.

Commissioner Soucy stated no, you can't write in if they don't have it on the ballot.

Chairman Dykstra responded that's yeah, that's right.

Deputy Clerk Johnson stated under the present Charter, you're not allowed to do any write-in votes in a primary if there is not more than two people running. It is not appearing on the ballot.

Chairman Dykstra stated so we're going to have a space for a write-in, right.

Deputy Clerk Johnson stated that's automatically as part of your form of ballot.

Chairman Dykstra asked did we have any motions or are we just discussing this.

Deputy Clerk Johnson stated no, I'm just advising what the differences are.

Commissioner Hirschmann stated I would like to see early on the City Clerk, I don't know how you worded it to us, but you said if things stayed non-partisan that there should be runoffs, and there shouldn't be primaries for non-partisan. So it's my motion that the School Board would be a runoff election in November, that there would not be a primary for the School Board because they're non-partisan, so they would only appear on the ballot in November in a runoff election. And I'd like a second if I could get it.

Commissioner Wihby duly seconded the motion.

Commissioner Shaw stated you don't want five people to be on the ballot. What are you saying?

Chairman Dykstra stated they're non-partisan. Aldermen are partisan. They're non-partisan by law.

Commissioner Hirschmann stated five people are running for School Board in your ward. They'll all appear on the ballot in November in a runoff fashion, and the winner takes it.

Commissioner Shaw stated under your proposal, you have a person who gets 101. The other gets 99, and the other gets 98, down, and I mean, you divide the whole vote up, you know, pretty evenly. Who wins?

Commissioner Hirschmann stated here's who wins. The people that are concerned with schools are going to be the people that win because then it will truly be a non-partisan election. They won't be in a partisan primary all holding signs and campaigning. You're missing my point. The fake non-partisan that we're all talking about. If they all just runoff, the winner wins. They don't have to be in a primary when there's all partisans around. That was the City Clerk's advice to have a runoff election for non-partisan candidates.

Commissioner Cook stated that was the City Clerk's opinion.

Commissioner Hirschmann stated and I liked it.

Commissioner Cook stated and that's fine, but here's the fundamental question though. If you've got five candidates, as it presently works, the five candidates run in September, and the top two run off in November. If you have only one election, you could have five candidates who could have as Commissioner Shaw says 101, 100, 99, 98, 97. Nobody's got anywhere near a majority, and somebody has gotten elected, and the only offices in town where the people didn't get a majority of the vote are those. The alternative method to do that is, and this I don't like because it creates another election which heaven help us, we don't need another election, but you'd have to have a runoff if nobody got a majority, but the runoff would have to be later, and that would cause a huge expense, and that's a problem. So that's the problem with the proposal. You could have somebody with theoretically four percent of the vote if there's 20 people running.

Commissioner Shaw stated I really think what you want, Alderman, is the person with the most votes to win.

Commissioner Hirschmann interjected that's correct.

Commissioner Shaw stated the only way you could really determine that is that on the September primary, only one person in Ward 1 runs for School Board. Their name should appear on the ballot, and the right to have a write-in candidate, okay, there could be five people who write their names in, but only one gets 24 votes. That's more than the other. Then comes the main election. That person is in a runoff. The present incumbent let's say and the person who got 24 votes now have a runoff election. I think that's what you really want is a runoff election. What we're saying is that before people who didn't have an opponent didn't get on

the ballot. I think we want to put everybody on the ballot, and you've got a block to write in. You know, Ward 1 doesn't get a free ride.

Commissioner Soucy stated I think the Clerk had originally presented two options to us, and that's if we stayed with non-partisan that we either do the election in November and then do a runoff or that we put the candidates on the ballot in September. Since this already requires a September primary and a November election, to me it would be an unnecessary expense to do a runoff in December. You could place those names on the September ballot. They wouldn't be identified by party. The top two vote getters would then move on to November. That would seem to be more cost effective and as Commissioner Cook said, it would allow for write-ins, but it would allow for the person winning to get a majority of the vote as opposed to someone getting 31 percent of the vote or even 28 percent of the vote and then being seated. That doesn't seem to be representative of what the people in a district wanted.

Chairman Dykstra stated the Clerk wants to address this. Maybe she can help clarify something for us.

Deputy Clerk Johnson stated actually it may confuse you more, but I'm going to lay it out there for you anyway. You've now set up a system where you have a primary election, you have a partisan election going on. Your School Board is elected non-partisan. If you put the School Board into your primary, the other thing that I need to tell you because it can not all be on the same ballot at that point is you would have a separate ballot for your school, and we would have to have either a separate checklist or a notation on the checklist. In the event that somebody comes in and they are an independent, they still have a right to vote in that primary for the School Board, okay. So I just don't want people thinking...

Commissioner Cook asked is that the way it worked before 1996.

Deputy Clerk Johnson stated there have been changes in the State law as I understand it. After knowing what was on the table, I did have that discussion with the Secretary of State. He did agree that we would have to make provisions for that. The Solicitor's office has also taken the...

Commissioner Cook stated but what did we do before 1996. I'm just trying to remember because I can't. Didn't we have on the same ballot all of the names of people?

Deputy Clerk Johnson stated my recollection is we had two ballots. Two ballots in the primary, but I'm not sure. They may have done it and got away with it. I don't know.

Commissioner Soucy stated when we had the machines, didn't the Shouptronic machines have the School Board in the lower right hand corner. I thought that we had two columns for the partisan, but then the School Board was...

Deputy Clerk Johnson stated I don't know if there's changes in the State law or if nobody ever recognized that you weren't allowing independents to vote for the School Board. That could also be.

Commissioner Soucy stated without claiming a status. So what you're saying is...

Deputy Clerk Johnson stated because if you show up at a primary in a partisan election, you have to declare, so I just wanted to make that clarification that that is the way we would do it.

Commissioner Shaw stated I've seen in a lot of elections where only one person applied for the job, but something came up in the meantime, something affected the schools or something affected the Aldermen, and you have a write-in position when they're partisan, but on the school side, if somebody became so incensed at what the School Board member had done in their ward and goes out and gets the write-in votes to appear on the ballot, okay. And if there were five people that got incensed and all got their name on the November ballot, they could all end up being not a majority being on the School Board, 100, 101, because they could get write-ins.

Commissioner Cook stated no, because only the top two would go on to the election.

Commissioner Shaw stated on the September ballot, but if we don't put the School Board members on a September ballot, then a minority member on the School Board could get elected.

Deputy Clerk Johnson stated the motion on the floor is for a runoff. I'm only stating what he had stated originally. I mean, if you want to change it, go back and...and I have that Hirschmann by Commissioner Wihby right.

Chairman Dykstra stated for a runoff election for School Committee.

A roll call vote was taken. Commissioners Hirschmann and Dykstra voted yea. Commissioners Cook, Duffy, Pepino, Shaw, Soucy, Tessier, and Wihby voted nay. The motion failed.

Commissioner Shaw asked is that even in there. We're having a September primary for School Board.

Deputy Clerk Johnson responded yes, that's in here.

Commissioner Hirschmann stated may I ask the Clerk a question. With regard to the partisan elections, if Ward 7, if the Democratic side or the Republican side doesn't have a candidate and they draft somebody, does the drafted person still pay the fee?

Chairman Dykstra responded no. The person who drafted him pays it.

Commissioner Hirschmann stated I want to make sure they pay the fee.

Deputy Clerk Johnson stated we still would get the fee because there's a filing.

Commissioner Hirschmann stated as long as you get the fee, I'm happy.

Deputy Clerk Johnson stated review for fees. I'll make a notation Clerk to review for fees.

Commissioner Soucy stated could I ask a further question. So the status of the primary for School Board members, they would be listed on a separate ballot in the September primary.

Deputy Clerk Johnson stated at this point in time, with the machines we have, that's the way it would work. Now, with HAVA, there are many things changing and obviously for that, it would be different because you're going to have, you know, earphones on and using a different kind of a machine under those federal regulations, so my answer is today you would. Would that be five years from now? I don't know, but what would happen is people who are independents who don't want to claim a party would still have the opportunity to come in.

Commissioner Soucy stated to vote just for the School Board.

Deputy Clerk Johnson stated to vote for the School Board. That's correct

Chairman Dykstra stated moving along here. Where are we now? We're just going to move down.

Deputy Clerk Johnson stated 5.04, 5.05, 5.06 is all the same as what was approved to date. 5.07 talks about the filing period, and we have five consecutive days here and the Commission had approved ten before.

Chairman Dykstra stated so, it's five.

Commissioner Shaw stated could I move ten.

Deputy Clerk Johnson stated he wants to move to change it to ten. Is that what you're saying?

Commissioner Soucy duly seconded the motion.

Chairman Dykstra stated okay, moved by Commissioner Shaw to move it to ten. Second by Commissioner Soucy.

Commissioner Shaw asked is that still July.

Deputy Clerk Johnson responded yes. 5.07 change to ten.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson stated that was unanimous.

Chairman Dykstra stated nominating petitions.

Deputy Clerk Johnson stated I do have a suggestion on that. 5.08, nominating petitions, the working document as well as approved to date, but we would note in petitions having none at the end is fine. I think it meets your intent, but nomination papers which is your next section, 5.09, I really think, I think I may have made the mistake when I said I'm presuming that would be done because nominating papers are different than petitions. You're not substituting that for a filing fee. You're talking about independents who go out, and they want to run on a November general ballot basically, need to get nominating papers. This is not relating to a filing fee, so I'm presuming that you really would want to reinsert the 25.

Chairman Dykstra asked where it says none.

Commissioner Soucy asked ballot access is what you're talking about.

Deputy Clerk Johnson stated it's an access to the ballot issue.

Commissioner Soucy stated I would move that.

Commissioner Hirschmann duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Commissioner Cook stated a question for clarification because I think I know the answer, but I'm not sure. Anybody can run under this section as an independent candidate regardless of their party registration?

Deputy Clerk Johnson stated in the general under the Section 5.09, they would be authorized to do that.

Commissioner Cook stated so in other words, not somebody who ran in the primary and lost. That's obviously not true. You can't do that under State law, but a Republican who didn't run in the Republican primary, who doesn't like the results of the Republican primary, can get 500 signatures and under State law, run as an independent candidate.

Deputy Clerk Johnson responded he couldn't run as an independent candidate, I don't think because he's not an independent.

Commissioner Cook asked what if he changed his party or she changed her party to independent.

Commissioner Hirschmann stated you can't change within 45 days of an election or something like that.

Commissioner Cook stated I'm just trying to figure it out. One of the intents of State law is if you're going to have a partisan election is not to circumvent it.

Deputy Clerk Johnson stated no. This would be for the circumvention. In essence, for somebody, they still would have to file during the filing period, but they would be filing nominating papers.

Commissioner Cook stated so they would have to file in July anyway.

Commissioner Hirschmann asked do we need that sentence inserted there, to say that.

Deputy Clerk Johnson stated I think we know that, but...

Commissioner Shaw stated well, that's the point that you don't know the election results. You have to file in July.

Deputy Clerk Johnson stated you have to do it during the filing period.

Commissioner Cook stated I think that's the answer, but that doesn't go to the party thing. If somebody is a Democrat, and somebody says, "I don't want to run in the Democratic primary. I want to run as a third party candidate." At that point, they can change their party to independent, undeclared, and file the papers, but then to file them during the ten days in July.

Deputy Clerk Johnson responded right.

Commissioner Cook stated and then they can appear on the ballot as a third party candidate, but nobody can...

Deputy Clerk Johnson stated but not as a third party...this would not be in the primary. It would not go on until November.

Commissioner Shaw asked in July, within that ten day time span, an independent wanted to run as a Republican for Mayor, would he be allowed to do that, without changing his independent status.

Commissioner Cook stated only a Republican can run...

Commissioner Soucy stated only a Republican can run...

Commissioner Shaw stated only a Republican can run, and that's within the 45 days anyway, so he could walk in...you said 45. There is a time span.

Commissioner Cook stated it's outside the 45 days.

Commissioner Shaw stated no, July is within.

Commissioner Soucy stated no.

Commissioner Cook stated not till the September election, it's not.

Commissioner Hirschmann stated I thought there was a window.

Deputy Clerk Johnson stated I'm not clear what the question is, I guess.

Commissioner Cook stated my concern was somebody who didn't like the results of their party and then decided to get in. The only way to do it here is with a massive write-in effort which is always possible, but that's unlikely.

Deputy Clerk Johnson stated unless State law changed.

Chairman Dykstra stated oh, wait a minute. That's what Beaudry did against Gail Barry.

Commissioner Pepino stated he won big time.

Chairman Dykstra stated he did a write-in. I mean it does happen.

Commissioner Soucy stated right, but that was in a non-partisan case.

Deputy Clerk Johnson stated we have a motion on the floor to reinstate the 25...

Chairman Dykstra stated that was already passed I think. We voted on that.

Deputy Clerk Johnson asked did you vote on that. You had a voice vote?

Chairman Dykstra responded it was a voice vote. We passed that.

Deputy Clerk Johnson stated so we're on political calendar, 5.10. Let me just go here and make sure there's nothing changed. The second sentence was removed from what previously had been approved by the Commission.

Commissioner Cook asked where are we now.

Deputy Clerk Johnson stated 5.10 on political calendar, authority.

Commissioner Soucy asked could someone clarify what that in effect does, removing that sentence.

Chairman Dykstra stated the Mayor shall be elected by the voters. Leaving out Commissioner of Welfare.

Commissioner Soucy stated no, no, no. I was referring to 5.10. "Any action taken by any candidate or official in connection with the election laws which shall be taken in accordance with the dates set forth in such calendar shall be deemed to be duly performed for the purposes of election laws." I'm just asking for a clarification from the Clerk's office, if it had any...

Commissioner Hirschmann stated too much language. Just get rid of it.

Deputy Clerk Johnson stated I don't know that we would not rule that way anyway, but there may be some other reason statutorily or otherwise that I am unaware of.

Chairman Dykstra asked anything further on that.

Commissioner Cook stated I think the political calendar controls when things have to be done, so I think that sentence probably is redundant.

Chairman Dykstra stated next is 5.11.

Deputy Clerk Johnson stated City and ward officers.

Chairman Dykstra stated the Commissioner of Welfare was crossed out.

Deputy Clerk Johnson responded yes. Well, the difference between what the Commission previously approved and now was the At Large have been removed. 5.12. Vacancies.

Commissioner Hirschmann stated 5.12. I have something for b). I wanted the Solicitor to see if he could rule that this...I think b) is illegal, and I think this addresses it. If he could just read that or acknowledge it.

Deputy Clerk Johnson stated yeah, it is. There is a State law on that.

Chairman Dykstra stated where it says "Chairman of the Board", Bob.

Deputy Clerk Johnson stated it isn't consistent with law. We did look that up.

Commissioner Hirschmann stated State law says that no one serving as an Alderman can be the Mayor.

Commissioner Shaw stated I like that.

Commissioner Pepino stated it used to be in the Charter.

Commissioner Shaw stated it may have to be there, but it wasn't in the 1996 one.

Chairman Dykstra stated that's when they appointed Stanton that time.

Commissioner Hirschmann stated so, there's an RSA that addresses it, so the RSA would take precedence over that b), so we're going to just...

Commissioner Shaw stated but an Alderman can serve until such time...

Deputy Clerk Johnson responded no. State law prohibits it. The State law says as soon as may be after such vacancy shall occur, the Board of Aldermen and the Common Council shall meet and respectively declare the existence of such vacancy and cause thereof whereupon said Board of Aldermen and the Common Council shall meet in convention and elect a Mayor who shall serve until the next regular election and until a successor is duly elected and qualified. No person who is at the time of the occurring of the vacancy a member of either Board of Aldermen or the Common Council shall be eligible to election by said convention.

Commissioner Shaw asked did we change that in 1996 to something.

Deputy Clerk Johnson stated no. I think they left it out because the State law...

Commissioner Hirschmann stated I'll move to adopt the RSA language.

Commissioner Shaw duly seconded the motion, stating I never wanted an Alderman to be Mayor anyway.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated we have no choice there anyway. That's State law.

Deputy Clerk Johnson stated I'll just indicate that the Charter shall be consistent...

Commissioner Hirschmann stated take out the Common Council part. Just say Board of Aldermen.

Deputy Clerk Johnson stated we'll just put it in there because they will look for it in the Charter, not in the State law.

Commissioner Shaw asked what about School Board under c).

Chairman Dykstra stated office of School Committee. You have it in there.

Commissioner Shaw stated but I didn't know if everybody liked it.

Commissioner Hirschmann stated wonderful.

Chairman Dykstra stated well, we do the Aldermen anyway for an election, so now you're saying School Committee.

Commissioner Shaw stated they'd have to be elected.

Chairman Dykstra asked what do you mean may call. Why is it may? Why is it may instead of shall?

Commissioner Hirschmann stated because if it's close to an election, they may not want to call it.

Deputy Clerk Johnson stated no. There are two reasons for this. I believe that the law required, and I don't have it in front of me, that these also go to regular election...

Commissioner Shaw interjected we don't want to leave it vacant for 11 months.

Commissioner Soucy stated right. That was his point.

Deputy Clerk Johnson stated and he felt it should be done by election, and then if it has to be another election by law, then so be it. So it would be up to the Aldermen as to whether or not they want to wait till a November election which is going to be required by law.

Commissioner Cook stated what happens is this is unlikely, but I understand not being required to do it if it's going to cause a huge expense for something that could be taken care of in, you know, a month and a half. But what if it's 11 months before, and the Aldermen say we don't want to go to the expense, and they're given the discretion to do it.

Commissioner Shaw interjected no. We don't want to do that either.

Commissioner Cook stated shouldn't it say something like shall call a special election unless within...

Chairman Dykstra interjected but that's the way they have it for the School Committee, don't they. I mean for the Aldermen. The Aldermen have it written that way, don't they?

Commissioner Tessier stated it should be the same.

Deputy Clerk Johnson stated it's the same in here. Are you talking about Aldermen or School Committee?

Commissioner Cook stated they're both in that section, but the issue is you could play some...the Aldermen, not that Aldermen would ever do it...

Chairman Dykstra stated I'm wondering how we've had it worded for the Aldermen in the past. I thought it was shall. Is it may?

Commissioner Cook stated if the vacancy came up, and people counted the votes on either body, I don't care if it's Aldermen or School Board, if they counted the votes on either body, and the majority of them said, "If we don't fill that one, which is likely to be filled by a member of the other party, we stay in the majority," and they don't do it because it's discretionary and therefore they're depriving that ward of representation on either Board for a long period of time, I think that's a mistake. I think what we ought to say is they shall call a special election unless it's within, you know, 30 days of an election or some number.

Deputy Clerk Johnson stated can we just suggest that the Clerk and the Solicitor will bring the State law language at the next meeting.

Chairman Dykstra stated that's fine, so we'll just move on. I thought that was the same as the Aldermen. We just added School Committee.

Deputy Clerk Johnson stated so return State statutes Aldermen and School Board vacancies.

Chairman Dykstra stated Board of Registrars.

Commissioner Hirschmann stated all that's clean.

Deputy Clerk Johnson stated 5.13. You're adding g). 5.14, it's just unless otherwise prescribed by law.

Chairman Dykstra stated prescribed by law. We put that in some other areas too. Section 5.15.

Deputy Clerk Johnson stated 5.15, 5.16, and 5.17, there were no actions by this Commission anyway up till now, and this is the same language that's been there for a long time. 5.18 "to file as a candidate for or to" is what has been added.

Chairman Dykstra stated so in order to file, he has to be here a year too. Is that correct?

Deputy Clerk Johnson stated that's the only real difference. Then 5.20, there was no...registered voter, that shouldn't say file as a...

Commissioner Soucy interjected yeah, why is registered voter...

Commissioner Cook interjected just a question for the Solicitor on the Mayor. I know there's a provision in the State law as to who can be a Mayor, and the person has to have been a resident for a year to be Mayor, but I think filing for may be inconsistent with that statute. I think the law is silent on the other one, so we can probably do it, but I'm a little worried about the Mayor one. We could take a look at that.

Deputy Clerk Johnson stated I believe that that's the same language we've worded it the last time though.

Commissioner Cook stated I just wanted to check it. If it's legal, I have no problem with it. I just wanted to make sure that was legal.

Chairman Dykstra stated the Clerk will check that out for the next meeting. Okay, fine.

Deputy Clerk Johnson stated what you had previously was to file as a candidate for office of Mayor, one must be a resident of the City before.

Commissioner Cook stated having reread 49 whatever it is, it said to be a Mayor, you have to have been a resident for a year.

Deputy Clerk Johnson stated so, we're going to refer that to review by Solicitor.

Commissioner Soucy stated in 5.20, it's labeled registered voter.

Deputy Clerk Johnson responded yeah, to file for a candidate, a person has to be a registered voter.

Commissioner Shaw stated you can't be a candidate if you're not registered.

Deputy Clerk Johnson stated before you could hold the office...

Commissioner Soucy stated right, I understand that. The wording of it seems...

Deputy Clerk Johnson stated to hold any elective office, City or ward office, the person had to be a registered voter before. Now, you're saying if you file as a candidate for that office, you need to be a registered voter. You shouldn't be able to file for it if you're not registered which in essence, we would register them the same day because we certify them anyway.

Commissioner Tessier stated I guess this would be a question for Carol. There's no time limit on how long someone has to live in a ward before they can run for a ward officer?

Deputy Clerk Johnson responded no there isn't. And sometimes, you know, we turn around and get them...

Chairman Dykstra interjected sometimes they don't even live in the ward and you appoint them. I can vouch for that. We just did the Mayor. We're going to check 5.21. We're on 5.22 because 5.21, you're going to check with the Solicitor, right?

Deputy Clerk Johnson stated 5.22, 5.23, 5.24, 5.25, 5.27, and 5.28 hadn't been acted on before. The posting of the notice, we changed the date.

Chairman Dykstra stated to June, okay.

Deputy Clerk Johnson stated there is a typographical error where it goes from 5.27. It says 5.38. That obviously should be 5.28.

Commissioner Duffy asked is there a reason why there's so much language in this than appears in the current Charter.

Deputy Clerk Johnson responded yes, because you're going from non-partisan to partisan. That changes a lot of it, so basically what you're doing is restoring all your partisan language, for the most part.

Chairman Dykstra stated recounts.

Deputy Clerk Johnson responded I don't think there were any changes in recounts.

Chairman Dykstra stated three members on the Board of Recount.

Deputy Clerk Johnson stated term of office. You have a term of office for recount of two years, and you voted for three earlier for everything else.

Chairman Dykstra stated that's good because they have an Aldermanic member, and that's a two year term, so that's better.

Deputy Clerk Johnson responded right. I think that's part of the reason.

Chairman Dykstra stated that's what it was because the Alderman is two years because I was on that, and that's what they did it for.

Deputy Clerk Johnson stated time and notice, conduct of the recount, that's all the same. Declaration of results, that was the same except wait a minute here.

Chairman Dykstra asked is there anything in State law. There must have something too.

Deputy Clerk Johnson stated 5.24 is 5.29 in the working document. We need to look at 5.29 for just a second. There was a motion that was made by Commissioner Soucy previously, and that's why I just want to address it. I don't want it to be missed. There was some verbiage regarding declaration that had been suggested which the Commission had adopted before. As announced by the City Clerk.

Deputy Solicitor Arnold stated of announced by the City Clerk That was within two days in this one.

Deputy Clerk Johnson stated I just wanted to point out that that was the difference because that's what I'm trying to do, and actually it would say, when the general election results are announced by the City Clerk.

Commissioner Soucy stated can I make a motion that we add that language. On page 20, Section 5.29, this Commission had previously voted to include language allowing people to file for a recount within two days after the municipal primary election results or municipal general election results have been declared by the City Clerk. We're adding "have been declared by the City Clerk".

Commission Pepino duly seconded the motion.

Chairman Dykstra stated I remember we voted on that. Do we need to have discussion or do you want to just vote on that? I'm going to just call for a vote.

Deputy Clerk Johnson asked you're still leaving it at...how many, 48 hours.

Chairman Dykstra stated declared by the City Clerk or something.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson asked do we want to say two days or 48 hours in that. We release them at noon the day after the election.

Commissioner Duffy stated Madame Chair, could I suggest this may be a good time for us to consider adjourning for this evening, picking it up at this point next week.

Chairman Dykstra responded well, right now, I had mentioned before, you know we do have... I'd like to probably carry this on till 8 o'clock at least.

Commissioner Duffy stated I hadn't heard you just mentioned that earlier you were inclined to go to 8 o'clock.

Chairman Dykstra responded yeah.

Commissioner Duffy stated oh, you did.

Chairman Dykstra stated there's only 20 more minutes.

Commissioner Duffy asked did anybody else hear that.

Commissioner Tessier stated no, I didn't hear it. That you were going to 8 o'clock.

Chairman Dykstra responded no, we didn't need a motion for that. That's my decision to go till 8. I have a right to set the agenda and the time. Okay, and if you can't...you know, it's just till 8, cause we want to get as much done as possible.

Commissioner Tessier stated may I make a suggestion.

Chairman Dykstra stated we have a public hearing that's going to be coming up. When is it? The end of April.

Commissioner Tessier stated when you send the agenda out, if you're going to go later, could probably put a time in.

Chairman Dykstra stated I don't send the agenda out. When we come here at 5 o'clock...

Commissioner Tessier stated I got an agenda.

Deputy Clerk Johnson stated as soon as the minutes are done, we try to put an agenda together.

Chairman Dykstra stated it's just that the time is really running out, and we'll be having a public hearing in four weeks.

Commissioner Soucy stated it's a good thing we're not the Board of Mayor and Aldermen operating under this Charter.

Commissioner Tessier stated 6 o'clock.

Commissioner Cook stated I forgot to make a motion when we were doing the education part, and I apologize.

Chairman Dykstra asked where are we now, Brad.

Commissioner Cook stated back in the School District. I think it belongs in the section new which is before 4.03. Under the portion about School Board members. I'm look at Appointing Authority. I would like to amend the five members section to, and we'll probably have to work on language on this, to say that committees of the School Board dealing with high school matters may include with a half-vote each representatives of sending towns' School Boards to make it consistent with the tuition agreements. Now, that's only subcommittees. It's a half a vote. It's voting on school matters. Everything on a committee goes to the full Board. That's what is in the tuition agreement, and the School Board asked us to do.

Commission Tessier duly seconded the motion.

Commissioner Tessier asked is this for all committees. I thought it was restricted to two committees.

Commissioner Cook responded I don't know what we should put in the Charter. What the tuition agreement says is that it's only Curriculum and Instruction and Building and Sites, and it's only on considering high school matters. These are subcommittees of the full Board.

Commissioner Duffy stated may I ask for a clarification. Since the Charter is silent on subcommittees throughout the Charter...

Commissioner Cook responded the problem is the City Solicitor ruled that because School Board members are required to be residents of the City and standing committees of the School Board, the City Solicitor's office ruled that that applied too and non-residents of the City couldn't meet.

Commissioner Shaw stated subcommittees of the Committee.

Commissioner Cook stated yeah, subcommittees of the School Committee, right.

Commissioner Shaw stated subcommittee of the 12.

Commissioner Tessier stated I would concur with that if it was all committees, not just the C & I and the Building and Sites.

Commissioner Cook stated if the Charter allows it, obviously this says may. It doesn't say shall. It's the discretion of the School Board. In fact, that was a fairly hard negotiated provision that said no, only on those two committees, and it's a half a vote per town which, assuming we only have three towns which we only have now, that would be one and half more votes. Since this is limited to five voters, I think that's the section it needs to go in.

Commissioner Soucy asked are there any votes taken be either of those two committees that stand alone without going before the Board of School Committee.

Commissioner Cook responded no. They have no authority that doesn't...every vote of every subcommittee of the School Board goes to the full Board for discussion and for vote, and there are five members from Manchester, so you've got five members from Manchester, and everything goes back to the full Board on which they don't have a vote for consideration.

Commissioner Soucy stated so to the extent that if I may continue, to the extent that the one and a half votes affect the final result, the School Committee could choose to disregard or to overturn the vote of that committee.

Commissioner Cook responded absolutely. They're not binding at all. These are recommendations from the committee.

Commissioner Tessier asked if this group does not support that motion, does that in any way affect the contracts that are presently in place with the districts.

Commissioner Cook responded no. The contracts say that they will have input on the committees, and that the School Board will approach the Charter Commission and urge the amendment, but there are alternate provisions in the contract.

Commissioner Hirschmann stated the only way I could entertain that is that they'd be non-voting members of a subcommittee. I don't think that someone outside of Manchester should have voting powers on the committee structure in the City.

Commissioner Cook stated that's the argument.

Commissioner Shaw stated it seems it gives the towns who are paying the City of Manchester a tremendous amount of money a say on subcommittees of the School

Board. The School Board doesn't have to listen. The Aldermen definitely don't have to listen to the discussion. It just sounds like you send a message that if you're going to give us \$10-12 million, we kind of like your input, that's all. It doesn't have a bearing though on what passes eventually.

Chairman Dykstra stated well, they're not taxpayers in the City of Manchester.

Commissioner Shaw interjected well, technically they are.

Chairman Dykstra stated no. They're getting something for what they're paying for. I just have a problem with getting into that. I don't think it's going to be a very positive thing to put in the Charter. That's my own feeling. Anybody else have anything else to say? That's my opinion, I'm sorry.

Deputy Clerk Johnson stated I just want to clarify if your intent, and I believe it is but I just want to clarify, is that those committees may be increased to include. So, you still have your five plus...

Commissioner Cook stated five plus a half vote for sending communities.

Deputy Clerk Johnson stated a half vote each for sending towns paying tuition in the high school level, and that is only dealing with committees relating to high school.

Commissioner Cook responded it's only when dealing with high school issues.

Commissioner Shaw stated they've been asking for this since 1983, anyways.

Chairman Dykstra asked who.

Commissioner Shaw responded the towns.

Chairman Dykstra stated well, we're Manchester.

Commissioner Shaw stated on the governance of the high schools which the full Board never...we had always thought they wanted to be on the School Board. They're not going to be on the School Board. They've asked for it. They pay an awful lot of money. They could easily...as taxpayers, we should be worried that all of them would like to go. You know, we really don't want them to go, not all of them, okay. It's not giving up anything. If you could put these people on the School Board...let's say his motion was to put them on the School Board, we can't do that.

Chairman Dykstra asked why should we put that in the Charter, Bob. Why should that go in the Charter?

Commissioner Shaw responded because the City Solicitor ruled. You notice that to be a Mayor, you have to be a resident of the City. To be a Water Commissioner, you've got to be a resident of the City.

Chairman Dykstra asked why should a person who isn't a resident of the City vote. Why?

Commissioner Hirschmann asked why dilute your School Board.

Commissioner Soucy stated you're not affecting your...

Chairman Dykstra stated I'm addressing Commissioner Shaw, please.

Commissioner Shaw stated I know that it seems out of whack for me to be for this here, but it doesn't cost anything. It's doesn't affect anything. It's like we had a motion before that said if people didn't show up at commission meetings, if they didn't show up to do nothing, you could get them eliminated. Well, this here...they're coming and can't do nothing.

Chairman Dykstra interjected well, Commissioner Shaw, if they can't do anything, why bother. Just like when you said the commissions did nothing, we abolished them, so what is your thought process here?

Commissioner Shaw responded what is my point. I think that it makes it fair in their eyes to have...to be able...now, somebody had said they'd be non-voting. I don't know if that's really...now presently they can't even be there to discuss.

Commissioner Cook interjected anybody can be there to discuss.

Chairman Dykstra stated I don't mind discussion, but I don't want them to have a vote. I just don't think it's fair to the residents. They're not a resident.

Commissioner Hirschmann stated amend it to non-voting.

Chairman Dykstra asked do you want to amend it to non-voting.

Commissioner Pepino stated let the School Board make the decision.

Chairman Dykstra stated if you want to, any amendment is open if you want to. If you don't, we're just going to move on this.

Commissioner Cook stated they can already make them non-voting.

Chairman Dykstra stated all right, so no amendments. Okay, let's take a vote.

A roll call vote was taken. Commissioners Cook, Duffy, Shaw, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Wihby, and Tessier voted nay. The motion carried.

Commissioner Hirschmann asked who says what committee that they're going on, the Vice Chairman or the Chairman.

Commissioner Cook responded the contract said those committees. It only gives them that right on two committees of the five.

Commissioner Shaw stated the Committee on Curriculum and Instruction and Land and Buildings for high schools.

Commissioner Soucy stated only.

Commissioner Shaw stated for high schools only. In other words, if the School Committee is discussing grammar schools, they just neither have them public nor discussion.

Chairman Dykstra stated okay, we're moving along here. That wasn't in there.

Deputy Clerk Johnson stated so we're going back to where we were before.

Commissioner Duffy stated 5.34.

Deputy Clerk Johnson stated political campaign contributions and expenses.

Commissioner Hirschmann stated I've got an amendment to that.

Commissioner Shaw stated didn't we put all your stuff to one dollar.

Commissioner Hirschmann stated 5.34 k).

Deputy Clerk Johnson stated there are some differences.

Commissioner Shaw stated he's discussing k).

Deputy Clerk Johnson stated we're not ready for k).

Chairman Dykstra stated she's just going to let us know what the differences are. Then, he'll make his motion, okay.

Commission Shaw asked why is all of this crossed out.

Deputy Clerk Johnson stated the differences between the proposed Charter which is on the floor and actions previously taken by the Commission, the definitions in a) and d) are slightly different. There was some definition that was proposed originally by Commissioner Soucy, and then the other difference is in k), cause the working document...one calls for seven days rather than ten days before and after. And then, other sections just hadn't been acted on by the Commission. That's just to give you the differences, and I guess Commissioner Hirschmann has some more changes.

Commissioner Hirschmann stated I want to amend item k) to say, "Each candidate and each political committee whose combined contributions or combined expenditures equal or exceed one dollar (\$1.00) shall file a disclosure report with the City Clerk within seven (7) days immediately preceding any election and seven (7) days immediately following the election."

Chairman Dykstra asked do I have a second to that. That's just to change the \$500 to a dollar. We did that before.

Commissioner Hirschmann stated if you don't amend this, people won't have to file a report until the election is long over with.

Chairman Dykstra stated I'm going to second it for discussion, so we have a second on the floor.

Commissioner Shaw asked what does the one before do.

Deputy Clerk Johnson stated it does ten days before and after.

Commissioner Shaw stated I mean, what does the one before do for you.

Commissioner Hirschmann responded it keeps everyone open and honest. This is ethical government that we're running here.

Commissioner Pepino stated that's right. I'll buy that.

Commissioner Shaw stated I thought we were trying to reduce the burden on the candidates. I thought.

Commissioner Hirschmann responded no. This is for open and honest government.

Commission Pepino asked what is your motion.

Commissioner Shaw stated seven days before and seven days after.

Commissioner Cook asked instead of ten days before and ten days after.

Deputy Clerk Johnson responded no. He had changed that. It was only after. This is before and after, and he's saying seven days rather than ten which is what is existing.

Commissioner Shaw stated basically there is a penalty if you don't file.

Chairman Dykstra called for a vote. The motion carried with Commission Duffy duly recorded in opposition.

Commissioner Soucy stated could I make a motion on Section 5.34. Item d), expenditures. We had previously discussed this, and I've tried to do a little bit of research looking at surrounding states, looking at the federal laws, and from what I've seen to this point, Manchester, New Hampshire seems to be the only place that requires people who plan to expend money in the future to report that, and to me, it seems simpler to use, and I don't have it with me, but the statutory definition of an expenditure.

Commissioner Shaw asked which is what, do you think.

Commissioner Soucy responded which is money that you've actually expended.

Commissioner Tessier duly seconded the motion.

Commission Shaw stated could I ask her a question. If I buy a thousand signs and take them six days before the election, I take them. I go in and hand a check for them. I don't have to report that until after the election. Is that your point? If I haven't paid for the things...if I ordered a thousand signs and I don't take delivery of them until six days before the election, or I haven't paid for them, do I have to report it?

Commissioner Soucy responded if you haven't paid for them. I'm saying that expenditures should be actual disbursements. This is more of an accounting function.

Commissioner Cook stated as I understand the distinctions here, if you plan to spend money, but you haven't signed a contract obligating you to spend money, that's not required. If you have signed a contract obligating you to spend money in the future, but you haven't completed it, that's required to be reported. That's a very...I mean, I agree with Commissioner Soucy that that's a tough thing to do because you could sign an open-ended contract for consulting services that had no number in it. You could hire Joe Jones as your political consultant who's going to get paid \$50 an hour, but you don't know how many hours you're going to use him. It's going to be a tough one...A) It's going to be a tough to comply with. B) It's going to be a very tough one to enforce because how to heck are they going to know about it.

Commissioner Soucy stated I did find the definition that I was looking for. Expenditure shall mean the disbursement of money or thing of value or the making of a legally binding commitment to make such a disbursement in the future for the purpose...okay, no. That's not the right one then. I'm sorry. I don't have the right one with me.

Deputy Clerk Johnson asked do you want us to pull it out of the green book.

Chairman Dykstra stated why don't we just address this next meeting. We'll have the Clerk...okay one moment.

Deputy Clerk Johnson stated that statute language. Do you want to just table that then because there is a motion on the floor? Or do you want to just withdraw the motion, and we'll bring it back.

Commissioner Tessier stated I'll withdraw my second.

Chairman Dykstra stated she's going to work on it anyway.

Deputy Clerk Johnson stated we'll get the language.

Commissioner Soucy stated and present that at the next meeting.

Chairman Dykstra stated hold on. Wait a minute here. We've got hands up everywhere here. We got about five, ten minutes to go.

Commissioner Hirschmann stated we should work till midnight.

Chairman Dykstra stated no, I don't think so.

Commissioner Pepino interjected 6 o'clock. We're all done.

Chairman Dykstra stated we got a lot done today. We can just move on next week.

Commissioner Pepino stated I have one to bring in.

Chairman Dykstra asked where are we.

Commissioner Pepino stated Section 7.02.

Chairman Dykstra stated you're going out of order.

Commissioner Pepino stated he went back.

Deputy Clerk Johnson stated but you're going forward.

Commissioner Pepino stated I figured he brought in one. I got a simple one.

Chairman Dykstra he went back. You can go backwards but not forward here. We're going to go backwards but not forward. Sounds good. Okay, where are we now, Carol? You're going to check that out, and we are on...

Commissioner Duffy stated I think this is, Madame Chairman, a natural place now moving into election laws, I think it would be appropriate to consider suspending activities for the evening and continue at our next meeting.

There being no further business to come before the Commission, on motion by Commissioner Duffy, duly seconded by Commissioner Tessier, it was voted to adjourn.

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary